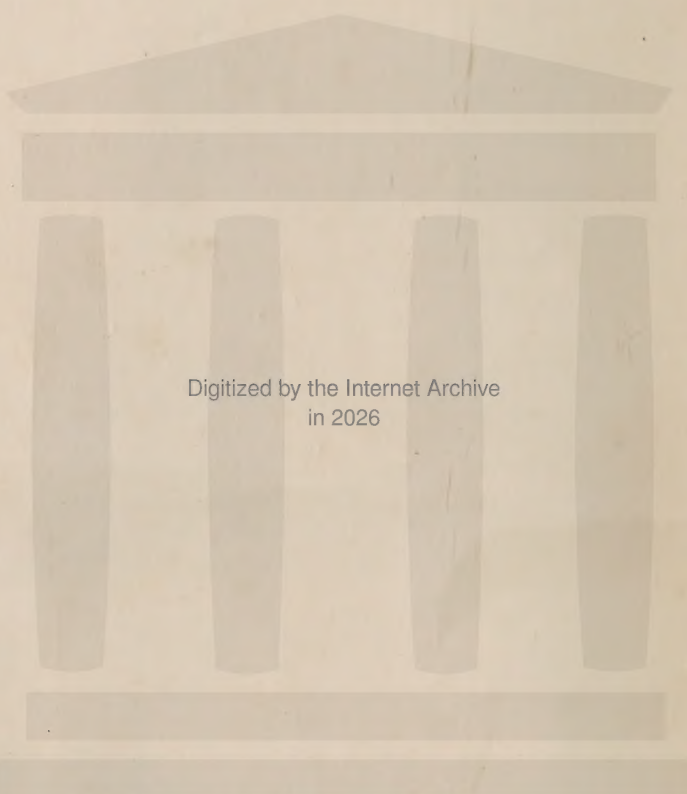


THE ALL ENGLAND LAW REPORTS

Tables and Index 1982

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Introduction

The Tables and Index 1982 covers all the cases reported in the three volumes of the All England Law Reports for 1982.

The tables and index consist of five sections:

- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 1982, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 1982
- a table of practice directions and notes
- a table of statutes judicially considered
- a table of words and phrases judicially considered
- a subject index, including a full system of cross-references, of all cases reported in 1982.

The Tables and Index 1982, when used in conjunction with the three volumes of the Consolidated Tables and Index 1936-1981 provides a complete index of cases reported in the All England Law Reports from 1936 to the end of 1982. The index is separate from the 1982 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

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 Dictum considered, *Parkin v Norman* [1982] 2 583
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 Affirmed [1946] 1 523, HL
 Dictum applied, *Stanton (Inspector of Taxes) v Drayton Commercial Investment Co Ltd* [1982] 2 942
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 Dictum applied, *Campbell v Tameside Metropolitan BC* [1982] 2 993
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 Considered, *McLorie v Oxford* [1982] 3 480
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 Affirmed on the second point but overruled on the first point [1956] 2 145, HL
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 Dewsbury Justices, R v, ex p Simpson, *See* R v Chichester Justices, ex p Collins

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 Dictum applied, **European Grain and Shipping Ltd v Johnston** [1982] 3 989
Dillon v R [1982] 1 1017, PC
Din v London Borough of Wandsworth [1981] 3 881, HL
 Considered, **Lambert v Ealing London BC** [1982] 2 394
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Dismore v Milton [1938] 3 782, CA
 Followed, **Ronex Properties Ltd v John Laing Construction Ltd (Clarke, Nicholls & Marcel (a firm), third parties)** [1982] 3 961
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Dodd Properties (Kent) Ltd v Canterbury City Council [1979] 2 118, QBD
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 Dictum applied, **Perry v Sidney Phillips & Son (a firm)** [1982] 1 1005
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 Applied, **R v Reilly** [1982] 3 27
DPP v Humphrys [1975] 2 1023, CA
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 Considered, **R v Grays Justices, ex p Graham** [1982] 3 653
DPP v Kilbourne [1972] 3 545, CA
 Reversed [1973] 1 440, HL
 Dictum considered, **R v Beck** [1982] 1 807
DPP v Morgan (sub nom R v Morgan) [1975] 1 8, CA
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 Considered, **R v Pigg** [1982] 2 591
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 Affirmed [1981] 1 578, HL
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 Considered, R v Surrey Coroner, ex p Campbell [1982] 2 545
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Consent unreasonably withheld—

Factors to be considered—Welfare of child first consideration—Practical consequences to child of making or refusing to make adoption order—Child ill-treated by mother—Adoption by foster parents in child's best interests—Mother conceding child should be brought up by foster parents—Mother refusing her agreement to adoption by them in order to keep in contact with child—Whether court should make adoption order or care and control order—Whether mother's agreement to adoption unreasonably withheld—Children Act 1975, ss 3, 12(1)(b)(ii). *Re F (a minor) (adoption : parental consent)* [1982] 1 321, CA.

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Nationality—Immigration control—Application to adopt child who has been refused admission to settle—Factors to be considered—Child's welfare to be balanced against reasons and policy for refusal of admission—Whether court entitled to consider afresh matters decided in immigration proceedings—Children Act 1975, s 3—Immigration Rules for Control on Entry : EEC and Other Non-Commonwealth Nationals (1972-73) para 38. *Re H (adoption : minor of foreign nationality)* [1982] 3 84, FamD.

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Solicitor. *See* Solicitor (Authority).

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Date of appointment of arbitrator—Appointment by Minister in default of agreement between parties—Whether appointment required to be made before date on which tenancy could have been determined by notice to quit given at date of demand for arbitration—Whether parties required to be notified of appointment to constitute effective appointment—Whether requirement that party must deliver statement of case within 28 days from appointment of arbitrator making party's notification of appointment essential to constitute valid appointment—Agricultural Holdings Act 1948, s 8(1), Sch 6, paras 1(1), 6. *University College, Oxford v Durdj* [1982] 1 1108, CA.

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Termination of tenancy—

Compensation—

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AGRICULTURE

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Requirements of notice—Appeal).

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Exercise of discretion—Both parties asking for reasoned award—Construction of contract in standard terms—Strong prima facie case that arbitrator was wrong not made out—Whether circumstances in which arbitration agreement made showing that parties not prepared to accept award as final—Whether leave to appeal against award should be granted *Astro Valiente Compania Naviera SA v Pakistan Ministry of Food and Agriculture, The Emmanuel Colocotronis* [1982] 1 578, QBD.

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Interpretation of charterparty clauses in common use—Anti-technicality clause—Interpretation of clause having wide repercussions on commercial community—Award involving interpretation of anti-technicality clause—Whether leave to appeal against award should be granted—Arbitration Act 1979, s 1. *Italmare Shipping Co v Ocean Tanker Co Inc, The Rio Sun* [1982] 1 517, CA.

One-off case—Circumstances in which leave would be granted—Arbitration Act 1979, s 1. *BVS SA v Kerman Shipping Co SA, The Kerman* [1982] 1 616, QBD.

Prima facie error in award—Charterers claiming to set off disbursements against payment of hire—Owners withdrawing vessel for non-payment of Hire—Owners not giving charterers 48 hours' notice to rectify default as required by charterparty—Arbitrator holding that claim to set off disbursements against hire amounting to waiver of right to notice to rectify default—Whether arbitrator prima facie in error—Whether leave to appeal against award should be granted—Arbitration Act 1979, s 1. *Italmare Shipping Co v Ocean Tanker Co Inc, The Rio Sun* [1982] 1 517, CA.

Procedure—Consideration of application for leave—Court required to form provisional view whether arbitrator was obviously wrong—Whether court able to form provisional view without benefit of argument—Arbitration Act 1979, s 1. *BVS SA v Kerman Shipping Co SA, The Kerman* [1982] 1 616, QBD.

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Defective award—Claimant accepting favourable part of award but seeking to set aside unfavourable part of award—Whether claimant waiving right to set aside defective award by accepting part of award. *European Grain and Shipping Ltd v Johnston* [1982] 3 989, CA.

Misconduct—Award signed by three arbitrators although award determined by only two members—Third arbitrator absent during determination but signing award form in blank—Whether award defective. *European Grain and Shipping Ltd v Johnston* [1982] 3 989, CA.

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Extension of time fixed by agreement—

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Inordinate and inexcusable delay—Delay making fair arbitration impossible—Repudiation—Frustration—Parties under mutual obligation to cooperate in keeping arbitration moving—Delay occurring before mutual obligation arising—Delay entirely caused by one party—Whether delay amounting to repudiation of arbitration agreement—Whether agreement to arbitrate frustrated. *Peal Wilson & Co A/S v Partenreederei Hannah Blumenthal, The Hannah Blumenthal* [1982] 3 394, CA.

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Circumstances in which leave to appeal should be given—Relevance of agreement of all parties to appeal—Application to Court of Appeal for leave to appeal—Procedure on hearing of application—Arbitration Act 1979, s 2. *Babanaft International Co SA v Avant Petroleum Inc, The Oltenia* [1982] 3 244, CA.

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Defendant under obligation to account to plaintiffs for net receipts under distribution agreement—Defendant ignoring requests for account—Plaintiffs issuing writ claiming an account and payment of moneys found due on taking of such account—Whether 'any dispute between the parties with regard to the matter agreed to be referred'—Whether court should stay court proceedings—Arbitration Act 1975, s 1(1). *Ellerine Bros (Pty) Ltd v Klinger* [1982] 2 737, CA.

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Arrest for using obscene language in the street to the annoyance of passers-by—Grounds for arrest—Belief of constable—Constable honestly and on reasonable grounds believing that offence had been committed in his sight—Person arrested assaulting constable in the course of being arrested—Person arrested later acquitted of obscene language offence but convicted of assaulting constable in execution of his duty—Validity of arrest—Whether arrested person liable for assault on constable in execution of his duty—Town Police Clauses Act 1847, s 28. *Wills v Bowley* [1982] 2 654, HL.

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Duty of bank on presentation of documents—Non-conforming documents—Bill of lading falsely and fraudulently completed by shipping agent—Seller presenting documents in good faith—Bank aware of fraud—Whether bank obliged to refuse payment—Whether seller's good faith relevant. *United City Merchants (Investments) Ltd v Royal Bank of Canada* [1982] 2 720, HL.

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Bankruptcy notice—

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Notice referring to only one judgment or order—Plaintiffs obtaining judgment against two defendants—Inquiry into damages ordered—Defendants ordered to pay costs of action and costs of three procedure summonses—Composite bill of costs prepared covering the four orders as to costs—Master issuing interim certificate on composite bill—Plaintiffs issuing bankruptcy notice referring to 'four final orders ... as evidenced by interim certificate'—Whether interim certificate 'a final order'—Whether notice referring to more than one order—Whether notice valid—Bankruptcy Act 1914, ss 1(1)(g), 2. *Re Wheeler (a debtor)* [1982] 1 345, CA.

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Penalties in respect of income tax offences—Whether penalties 'debts provable in bankruptcy'—Bankruptcy Act 1914, s 30(3)—Taxes Management Act 1970, ss 93, 95. *Re Hurren (a bankrupt), ex p the trustee v IRC* [1982] 3 982, ChD.

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Duty to act fairly—Duty not to take advantage of third party's mistake—Enrichment of estate at third party's expense—Bank paying money in bankrupt's account to bankrupt's mother on bankrupt's instructions—Bank unaware that receiving order made against bankrupt—Payment to mother made after receiving order gazetted—Mother using money to pay off certain creditors of bankrupt—Trustee in bankruptcy requiring amount paid to mother be paid into bankrupt's estate by bank—Whether bank entitled to prove in bankruptcy for that sum—Whether fairness requiring trustee not to take advantage of bank's mistake—Whether bank entitled to be subrogated of rights of creditors paid off by mother—Bankruptcy (Amendment) Act 1926, s 4. *Byfield (a bankrupt), ex parte Hill & Co Ltd* [1982] 1 249, ChD.

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Discontinuance of burials—Discontinuance of burials under Order in Council—Whether prohibition of burials following Order in Council precluding reinterment of human remains disturbed in course of permitted rebuilding scheme—Burial Act 1853, s 1. *Re St Mary's, Barnes* [1982] 1 456, Con Ct.

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Faculty for burial of non-parishioner in parish churchyard—

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Request and consent of Canada to Act passed by United Kingdom Parliament—

Whether 'Canada' meaning Senate and House of Commons of Canada—Statute of Westminster 1931, s 4. *Manuel v A-G* [1982] 3 786, ChD, [1982] 3 822, CA.

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Whether treaty rights enforceable against United Kingdom government. *R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Indian Association of Alberta* [1982] 2 118, CA.

Whether treaty rights enforceable against United Kingdom government. *Manuel v A-G*. [1982] 3 786, ChD, [1982] 3 822, CA.

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Transfer of interest in property pursuant to consent order made on decree nisi—Transfer of husband's joint interest in property—Wife undertaking to authorise her personal representatives to pay to husband value of interest transferred in the event of her death within specified period—Whether disposal under a contract—Whether disposal under a conditional contract—Whether transfer of interest 'by way of security'—Finance Act 1965, s 22(4)(a)(6), Sch 7, para 17(2)—Finance Act 1971, Sch 10, para 10. *Aspden (Inspector of Taxes) v Hildesley* [1982] 2 53, ChD.

CAPITAL GAINS TAX (cont)

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Settlement—

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Gains accruing to non-resident trustee—Apportionment of gains to beneficiaries—Beneficiaries resident in United Kingdom—Trustee having power to pay income and appoint capital to beneficiaries—Beneficiaries equally entitled to capital contingently on being alive at end of perpetuity period specified in settlement—Whether beneficiaries having 'interests in the settled property'—Whether apportionment of gains to beneficiaries 'just and reasonable'—Finance Act 1965, s 42(2). *Leedale (Inspector of Taxes) v Lewis* [1982] 3 808, HL.

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CAPITAL TRANSFER TAX

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CARE

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Action arising out of carriage—Limitation period—Right of action by way of counterclaim—When counterclaim initiated—Whether affidavit sworn in opposition to summons for summary judgment capable of amounting to counterclaim—Whether service of pleading embodying a counterclaim necessary to initiate or set up counterclaim—Carriage of Goods by Road Act 1965, Sch, art 32(1)(4)—RSC Ord 15, r 5. *Impex Transport Aktieselskab v AG Thames Holdings Ltd (trading as John Gibb & Sons)* [1982] 1 897, QBD.

Loss or damage to goods—Carriage by sea. *See* Shipping (Carriage by sea—Damages for breach of contract—Loss of or damage to goods).

Loss or damage to goods—Determination of carrier's liability. *See* Loss or damage to goods, *post*.

Loss or damage to goods—

Determination of carrier's liability—

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CARRIERS (cont)

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Criminal cause or matter—Jurisdiction of single judge to extend time for lodging case—Factors to be considered in deciding whether to grant extension of time—RSC Ord 56. **Devlin v F (a juvenile)** [1982] 2 450, QBD.

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Fraud—

Perjury—

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Place of safety order—

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Court's power to order parent or guardian to pay fine instead of child or young person—Child placed in care of local authority pursuant to care order—Child then committing several offences—Child living in local authority home at time—Justices imposing fines for offences and ordering local authority to pay them as child's guardian—Whether local authority his 'guardian'—Children and Young Persons Act 1933, ss 55(1), 107(1)—Children Act 1948, s 13(2). *Leeds City Council v West Yorkshire Metropolitan Police* [1982] 1 274, HL.

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Common land and rights of common—

Amendment of register—Procedure—Whether applicant for amendment can apply to Chancery Division for declaration entitling him to have land removed from register—Whether applicant required to apply to Queen's Bench Division for judicial review. *Re Tillmire Common* [1982] 2 615, ChD.

Land subject to rights of common—Registration of land consequential on registration of rights—Owner objecting to registration of rights but not to registration of land—Registration of land becoming final—Commons commissioner refusing to confirm registration of rights—Registration of rights avoided and cancelled—Owner applying to amend register by removal of registration of land—Whether land 'ceasing' to be common land on cancellation of registration of rights—Whether registration of land conclusive that land common land even though no rights of common existing over it—Commons Registration Act 1965, ss 10, 13(a). *Corpus Christi College, Oxford v Gloucestershire CC* [1982] 3 995, CA.

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COMMONWEALTH

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Colony or dominion—

Governmental obligation—

Canadian Indians—Whether United Kingdom government owing obligations to Canadian Indians. *R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Indian Association of Alberta* [1982] 2 118, CA.

Whether United Kingdom government owing obligations to Canadian Indians. *Manuel v A-G* [1982] 3 786, ChD, [1982] 3 882, CA.

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COMPANIES COURT

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COMPANY

Articles of association—

Restriction on transfer of shares. *See* Transfer of shares—Restriction imposed by articles of association, *post*.

Auditor—

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Change of name—

Public company—

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Charge—

Registration—

Extension of time—Matters to be considered—Imminence of liquidation when application for extension of time before registrar—Company in liquidation when matter before judge—Whether chargee entitled to extension of time—Whether registrar and judge right to refuse extension of time—Companies Act 1948, s 101. *Victoria Housing Estates Ltd v Ashpurton Estates Ltd* [1982] 3 665, CA.

Extension of time—Matters to be considered—Imminence of liquidation when application for extension of time before registrar—Company in liquidation when matter before judge—Whether registrar and judge right to refuse extension of time—Whether imminence of liquidation relevant—Companies Act 1948, s 101. *Re Resinoid and Mica Products Ltd* [1982] 3 677, CA.

Close company—

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Advertisement of petition—

Time—Seven clear days after service—Premature advertisement—Advertisement before service—Whether petition should be struck out—Companies (Winding-up) Rules 1949, r 28(3). *Re Signland Ltd* [1982] 2 609, ChD.

Costs—

Power to order costs of winding-up to be paid out of assets—Priority—Liquidator's costs of unsuccessful action against receiver to set aside debenture—Receiver realizing company's assets and paying preferential debts, his own and petitioner's costs and sum secured by debenture—Payments exhausting proceeds in receiver's hands—Whether liquidator's costs should be paid in priority to sum secured by debenture—Whether assets subject to a floating charge under a debenture remaining 'assets of the company' when charge crystallises and becomes fixed—Whether company can be 'in the course of being wound up' prior to compulsory winding-up order being made or liquidator being appointed—Companies Act 1948, ss 94(1), 319. *Re Christionette International Ltd* [1982] 3 225, ChD.

Corporation tax—

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Costs—

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Dealing with company—

Person dealing with company in good faith—

Transaction decided on by directors deemed to be within company's capacity—Person dealing with company in good faith not bound to inquire into company's capacity—Whether person receiving money from company in breach of trust protected from being a constructive trustee of money received—European Communities Act 1972, s 9(1). *International Sales and Agencies Ltd v Marcus* [1982] 3 551, QBD.

Debt—

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COMPANY (cont)

Director—

Emoluments from office or employment—

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Misfeasance. *See* Winding-up—Misfeasance—Director, *post*.

Remuneration—

Express power of company in general meeting to award remuneration—Test of company's capacity to award remuneration—Payment to director out of capital—Husband and wife sole shareholders and directors of company—Husband and wife drawing remuneration out of capital after company making trading loss—Husband working full-time in business but wife ceasing to be active because of illness—Wife remaining a director—Liquidator claiming to recover remuneration on ground of misfeasance—Whether drawings by husband and wife while company suffering loss ultra vires company—Whether company's capacity to award remuneration under express power dependant on benefit to company—Whether genuine award of remuneration intra vires regardless of benefit to company—Whether husband and wife had acted 'honestly and reasonably' and therefore ought to be relieved from liability—Companies Act 1948, s 333, Sch 1, Table A, Part 1, reg 76. *Re Halt Garage (1964) Ltd* [1982] 3 1016, ChD.

Unauthorised act—

Misfeasance. *See* Winding-up—Misfeasance—Director, *post*.

Distress for rent—

Declaration under Law of Distress Amendment Act. *See* Distress (Distress for rent—Declaration by person protected—Limited Company).

Distribution of assets in winding-up—

Voluntary winding-up. *See* Voluntary winding-up—Distribution of company's property, *post*.

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Fraud on minority of shareholders—

Representative action. *See* Minority shareholder—Representative action—Fraud on minority, *post*.

Fraudulent preference—

Winding-up. *See* Winding-up—Fraudulent preference, *post*.

Group of companies—

Corporation tax—

Relief. *See* Income tax (Company—Group relief).

Guarantee—

Power to give guarantee. *See* Objects clause—Construction—Borrowing power declared as an object—Power to lend money and give guarantees, *post*.

Lien—

Shares. *See* Shares—Lien, *post*.

Member—

Representative action—

Fraud on minority. *See* Minority shareholder—Representative action—Fraud on minority, *post*.

Shares. *See* Shares, *post*.

Memorandum of association—

Objects clause. *See* Objects clause, *post*.

See Objects clause, *post*.

Minority shareholder—

Personal action—

Action by minority shareholder against person causing damage to company and loss of profits—Whether personal action by shareholder against wrongdoer misconceived. *Prudential Assurance Co Ltd v Newman Industries Ltd (No 2)* [1982] 1 354, CA.

Representative action—

Fraud on minority—Action against majority shareholder—Company bringing action against majority shareholder for breach of contract—Majority shareholder having 100 of voting rights—Majority shareholder using voting power to force company to discontinue action—Majority shareholder not a director and owing no fiduciary duty to company—Whether majority shareholder entitled to vote according to its own interest—Whether majority shareholder's vote an abuse or misuse of power—Whether a fraud on minority. *Eatmanco (Kilner House) Ltd v Greater London Council* [1982] 1 437, ChD

Jurisdiction of court—Action by minority shareholder against defendants not having voting control of company—Defendants able by reason of position in company to ensure company itself would not bring action—Action alleging defendants induced company by fraud to enter into transaction against company's interests—Circumstances in which question whether minority shareholder entitled to bring derivative action should be determined as a preliminary issue. *Prudential Assurance Co Ltd v Newman Industries Ltd (No 2)* [1982] 1 354, CA.

Name—

Change of name—

Proceedings by or against company—Public company—Practice. *See* Practice (Parties—Change of name—Company).

Objects clause—

Construction—

Borrowing power declared as an object—Power to lend money and give guarantees—Company owing debt to second company which owed much larger debt to third party—Debt to third party personally guaranteed by director of company—Company giving guarantee of payment of debt owed to third party in return for loan to pay off its debt to second company—Company thereby assuming liability under guarantee for amount greater than debt owed by it—Whether guarantee within company's objects clause—Whether guarantee given for an unauthorised purpose—Whether guarantee should be set aside. *Rolled Steel Products (Holdings) Ltd v British Steel Corp* [1982] 3 1057, ChD.

Power to provide pensions for directors and employees—Whether power capable of being substantive object of company—Whether merely an ancillary or incidental power—Whether grant of pension to director/employee ultra vires company. *Re Horsley & Weight Ltd* [1982] 3 1045, CA.

COMPANY (cont)

Officer—

Auditor—

Acting as auditor when disqualified. *See* Criminal law (Company—Auditor—Acting as auditor when disqualified).

Pension—

Power to provide pensions for directors and employees—

Construction of objects clause. *See* Objects clause—Construction—Power to provide pensions for directors and employees, *ante*.

Receiver—

Duty—

Duty to guarantor of company's debts—Sale of company's assets—Receiver appointed by debenture-holder selling company's assets to repay debt—Debenture providing that receiver deemed to be agent of company—Debenture holder instructing receiver to hold sale of assets as soon as possible and in consequence sale negligently conducted—Assets sold at undervalue—Whether receiver owing duty of care to guarantor in realising assets—Whether receiver acting as debenture-holder's agent in realising assets. *Standard Chartered Bank Ltd v Walker* [1982] 3 938, CA.

Reduction of capital—

Application—

Long Vacation—Application to Companies Court in Long Vacation. *See* Practice (Companies Court—Applications in Long Vacation—Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts).

Scheme of arrangement—

Companies Court—Applications in Long Vacation. *See* Practice (Companies Court—Applications in Long Vacation—Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts).

Share premium account—

Applications to Companies Court in respect of share premium account—

Practice—Long Vacation. *See* Practice (Companies Court—Applications in Long Vacation—Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts).

Shareholder—

Minority shareholder—

Generally. *See* Minority shareholder, *ante*.

Shares—

Lien—

Articles of association giving company paramount lien over shares of shareholder indebted to it—Company also given right to sell shares subject to lien—Proceeds of sale received by company to be applied in payment of sum due from shareholder—Shareholder indebted to company—Equitable charge over his shares given by shareholder to third party—Whether company entitled to exercise power to sell shares and gain priority over equitable charge. *Champagne Perrier-Jouet SA v H H Finch Ltd*. [1982] 3 713, ChD.

Transfer—

Generally. *See* Transfer of shares, *post*.

Transfer of shares—

Restriction imposed by articles of association—

Notice to be given by member wishing to transfer shares—Bank appointed as executor of member's will—Bank requested in will to transfer testator's shares to named person—Equitable interest in shares vested in bank—Bank registered as holder of shares—Whether bank having sufficient interest to be a 'member' of the company—Whether transfer of equitable or beneficial interest in shares caught by restriction on transfer of shares—Whether notice of transfer required. *Safeguard Industrial Investments Ltd v National Westminster Bank Ltd* [1982] 1 449, CA.

Voluntary winding-up—

Distribution of company's property—

Debt in foreign currency—Ascertainment of liability—Date—Whether sterling liability of debt to be ascertained at date of commencement of winding-up or date of payment of dividends to creditors. *Re Lines Bros Ltd* [1982] 2 183, CA.

Stay of proceedings against company—

Meaning of 'proceedings'. *See* Winding-up—Stay or restraint of proceedings against company—Meaning of 'proceedings', *post*.

Winding-up—

Compulsory winding-up. *See* Compulsory winding-up, *ante*.

Debt—

Acknowledgment—Limitation of action. *See* Limitation of action (Acknowledgment—Debt—Company).

Fraudulent preference—

Debt—Interest—Claim by liquidator for interest on fraudulent preference—Members' voluntary liquidation subsequently becoming creditors' voluntary winding-up—Whether proceedings for declaration that payment was a fraudulent preference constituting proceedings 'for the recovery of [a] debt'—Whether liquidator entitled to interest on amount of fraudulent preference—Date from which interest payable—Law Reform (Miscellaneous Provisions) Act 1934, s 3(1). *Re F P & CH Matthews Ltd* [1982] 1 338, CA.

Intention—Payments to credit of company's bank account clearing company's overdraft—Director of company genuinely believing at time of payments that company would be able to pay its debts in full within three to six months—Whether payments made 'with a view of giving ... a preference'—Bankruptcy Act 1914, s 44(1)—Companies Act 1948, s 320(1). *Re F P & CH Matthews Ltd* [1982] 1 338, CA.

COMPANY (cont)

Winding-up (cont)—

Misfeasance—

Director—Ratification—Purchase of pension for director/employee by two directors of company without authority of board of directors or company in general meeting—Two directors the sole shareholders of company—Purchase of pension unauthorised but intra vires company and effected in good faith—Whether assent to purchase by the two directors ratifying transaction—Whether directors who are sole shareholders and who commit misfeasance by an act of gross negligence which inflicts loss on creditors can ratify their own negligence—Companies Act 1948, s 333(1). *Re Horsley & Weight Ltd* [1982] 3 1045, CA.

Petition—

Advertisement. *See* Compulsory winding-up—Advertisement of petition, *ante*.

Practice—

Companies Court. *See* Practice (Companies Court).

Stay or restraint of proceedings against company—

Meaning of 'proceedings'—Government department bringing criminal proceedings against company to recover statutory debt—Whether proceedings should be stayed—Companies Act 1948, ss 226, 307—Social Security Act 1975, ss 150(1), 152(4). *Re J Burrows (Leeds) Ltd* [1982] 2 882, CA.

Voluntary winding-up. *See* Voluntary winding-up, *ante*.

COMPENSATION

Agricultural holding—

Generally. *See* Agricultural holding (Compensation).

Termination of tenancy. *See* Agricultural holding (Termination of tenancy—Compensation).

Business premises—

Disturbance. *See* Landlord and tenant (Business premises—Compensation for disturbance).

Town and country planning—

Revocation of planning permission. *See* Town and country planning (Permission for development—Revocation—Compensation).

COMPETITION

Trade—

European Economic Community—

Rules. *See* European Economic Community (Rules on competition).

COMPROMISE

Action—

Solicitor—

Authority. *See* Solicitor (Authority—Ostensible authority—Compromise of action).

Income tax proceedings—

Proceedings to recover penalty. *See* Income tax (Penalty—Proceedings—Compromise).

CONFESSION

Criminal proceedings—

Admissibility. *See* Criminal evidence (Admissions and confessions).

CONFLICT OF LAWS

Contract—

Proper law of contract—

Collective agreement—Industrial relations—Collective agreement made in Spain for employment of ships' crews—Agreement in English and made on behalf of international federation of trade unions based in London—Under English law agreement conclusively presumed by statute not to be intended by parties to be a legally enforceable contract—Whether proper law of agreement English or Spanish law—Whether unenforceability of contract in England raising presumption against English law being proper law—Trade Union and Labour Relations Act 1974, s 18. *Monterosso Shipping Co Ltd v International Transport Workers' Federation* [1982] 3 841, CA.

Domicile—

Generally. *See* Domicile.

Foreign judgment—

Recognition by courts—

Foreign nullity decree. *See* Nullity (Recognition of foreign decree).

Foreign law—

Enforcement—

New Zealand statute providing for forfeiture of historic articles unlawfully removed from New Zealand—Claim by New Zealand Attorney General in England for return of article unlawfully removed—Whether claim unenforceable in English courts as being a foreign penal, revenue or public law. *Attorney General of New Zealand v Ortiz* [1982] 3 432, QBD.

New Zealand statute—

Statute providing that historic articles unlawfully removed 'shall be forfeited' to Her Majesty—Whether goods so removed automatically forfeited on removal from New Zealand—Whether forfeiture dependant on seizure of goods—Whether Crown's title accruing only on seizure—New Zealand Historic Articles Act 1962, s 12(2)—New Zealand Customs Act 1913, s 251—New Zealand Customs Act 1966, s 274. *Attorney General of New Zealand v Ortiz* [1982] 3 432, QBD.

CONSENT ORDER

Divorce—

Financial provision. *See* Divorce (Financial provision—Consent order).

Practice—

Generally. *See* Practice (Consent order).

CONSISTORY COURT

Generally. *See* Ecclesiastical law.

CONSPIRACY

Drugs—

Evasion of prohibition on importation of drugs. *See* Customs and excise (Importation of prohibited goods—Drugs—Evasion of prohibition—Conspiracy to evade prohibition).

CONSTABLE

Arrest without warrant by. *See* **Arrest** (Arrest without warrant).

Dismissal. *See* **Police** (Dismissal—Constable).

Obstruction. *See* **Criminal law** (Obstructing constable in execution of duty).

CONSTITUTIONAL LAW

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Crown. *See* **Crown**.

Foreign sovereign state—

Armed forces of foreign state—

Deserter or absentee without leave from forces of designated country—Proceedings before civil court in respect of person suspected of desertion—Evidence—Burden of proof—Evidential value of certificate from foreign commanding officer that person is a deserter—Visiting Forces Act 1952, ss 13, 14(b)—Army Act 1955, s 187(3). *R v Tottenham Magistrates' Court, ex parte Williams* [1982] 2 705, QBD.

Human rights and freedoms—

Jamaica. *See* **Jamaica** (Constitutional law—Fundamental rights and freedoms).

Jamaica. *See* **Jamaica** (Constitutional law).

Privy Council. *See* **Privy Council**.

CONSTRUCTIVE TRUST

See **Trust and trustee** (Constructive trust).

CONTEMPT OF COURT

Committal—

Breach of injunction—

Jurisdiction—County court—County court committing respondents to four and six months' imprisonment for breach of injunction—Whether county court entitled to commit for more than one month for contempt—Whether county court a 'superior court'—County Courts Act 1974, s 74—Contempt of Court Act 1981, ss 14(1), 19. *Whitter v Peters, Peart v Stewart* [1982] 2 369, CA.

Court—

Commission of inquiry—

Inquiry into allegations of fraud and corruption made against appellant—Supreme court judge appointed as sole commissioner to conduct inquiry—Abusive and scurrilous remarks made by appellant about judge in his capacity as a commissioner—Whether contempt of court. *Badry v DPP of Mauritius* [1982] 3 973, PC.

Divorce proceedings—

Disclosure of contents of court welfare officer's report on child. *See* **Divorce** (Practice—Children—Report of court welfare officer—Disclosure of contents of report).

Obstruction of legal proceedings—

Obstruction of person's right of access to courts—

Prisoner—Legal communications—Governor stopping communications—Letter by prisoner to solicitor when party to proceedings alleging theft by assistant governor—Letter stopped by governor but prisoner told he could rewrite letter without allegation—Prisoner shortly due to see his solicitor in prison—Subsequent application by prisoner to commit governor for contempt—Application accompanied by letter—Governor stopping application—Whether application a 'letter or communication'—Whether governor guilty of contempt—Whether stopping of letter not calculated to obstruct or interfere with due course of justice—Whether stopping of application to commit and accompanying letter contempt by hindering prisoner's access to courts—Prison Rules 1984, rr 33(3), 34(8), 37A(4). *Raymond v Honey* [1982] 1 756, HL.

Publications concerning legal proceedings—

Documents disclosed on discovery in action—

Undertaking not to use documents disclosed for purposes other than action—Duty of solicitor—Litigant obtaining discovery of documents—Documents quoted in court in action—Litigant's solicitor allowing journalist access to quoted documents—Whether solicitor released from implied undertaking not to use documents for purposes other than action because documents quoted in court—Whether solicitor guilty of contempt. *Home Office v Harman* [1982] 1 532, HL.

Pending proceedings—

Publication of matter calculated to prejudice of fair trial—Defence—Newspaper article on matter of public interest—Whether words complained of part of discussion of general public interest—Whether risk of prejudice to trial merely incidental to discussion—Contempt of Court Act 1981, ss 1, 2(2), 5. *Attorney General v English* [1982] 2 903, QBD & HL.

Postponement of publication—

Committal proceedings—Jurisdiction of magistrates hearing committal proceedings to order postponement of publication of proceedings—Whether breach of order a contempt of court—Criminal Justice Act 1967, s 3—Contempt of Court Act 1981, s 4(2). *R v Horsham Justices, ex parte Farquharson* [1982] 2 269, QBD & CA.

CONTINGENT INTEREST

Settlement. *See* **Settlement** (Contingent interest).

CONTRACT

Acceptance. *See* **Offer and acceptance**—Acceptance, *post*.

Breach—

Carriage by sea—

Damages. *See* **Shipping** (Carriage by sea—Damages for breach of contract).

Damages. *See* **Damages for breach, post**.

Waiver—

Conduct amounting to waiver—Shipping contract—Sellers delivering documents late—Buyers requesting sellers to hand over documents to sub-buyers—Buyers rejecting documents two days later—Whether buyers thereby representing that they were prepared to accept documents—Whether buyers waiving rights to reject documents—Whether sellers relying on representation to their prejudice. *Société Italo-Beige pour le Commerce et l'Industrie SA v Palm and Vegetable Oils (Malaysia) Sdn Bhd* [1982] 1 19, QBD.

Building contract. *See* **Building contract**.

CONTRACT (cont)

Carriage—

Carriage by sea—

Damages for breach of contract. *See* **Shipping** (Carriage by sea—Damages for breach of contract).

Goods. *See* **Carriers** (Contract—Carriage of goods).

Collective agreement—

Proper law. *See* **Conflict of laws** (Contract—Proper law of contract—Collective agreement).

Conflict of laws. *See* **Conflict of laws** (Contract).

Contract of service—

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Carriage by sea—

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Pleading. *See* **Practice** (Interest—Pleading).

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Restitution—Repair of chattel—Wasting asset—Replacement of used part by new part—New part adding to life of chattel—Plaintiff having to purchase new part on hire purchase—Whether defendants liable for total cost of new part—Whether defendants only liable for cost of new part in proportion to remaining life of replaced part—Whether defendants liable for hire-purchase charges incurred by plaintiff. *Bacon v Cooper (Metals) Ltd* [1982] 1 397, QBD.

Employment—

Generally. *See* **Master and servant** (Contract of service).

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Foreign exchange control. *See* **Currency control** (Exchange control—Foreign exchange control—Bretton Woods Agreements—Exchange contracts).

Frustration—

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Nationalisation—

Oil concession in Libya—Agreement to development oil concession—Plaintiffs agreeing to develop concession at own expense and defendant agreeing to reimburse plaintiffs for his share of development costs if and when oil found in commercial quantities out of his share of oil so found—Libyan government, following revolution, expropriating plaintiffs share in concession and excluding plaintiffs from field—Whether contractual provisions contemplated political risks and excluded the making of an award—Whether action for the recovery of 'any debt or damages'—Whether interest payable on principal sums awarded—Exercise of judge of his discretion to award interest—Law Reform (Frustrated Contracts) Act 1943, ss 1(2)(3), 2(3); Law Reform (Miscellaneous Provisions) Act 1934, s 3(1). *BP Exploration Co (Libya) Ltd v Hunt (No 2)* [1982] 1 925, QBD, CA & HL.

Memorandum or note—

Sale of land. *See* **Sale of land** (Memorandum of contract).

Misrepresentation. *See* **Misrepresentation**.

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Acceptance—

Acceptance by telex—Instantaneous communication between offeror and offeree by telex—Whether contract concluded when and where telex sent or when and where received. *Brinkibon Ltd v Stahag Stahl und Stahlwarenhandels-gesellschaft mbH* [1982] 1 293, HL.

Option. *See* **Option**.

Proper law—

Generally. *See* **Conflict of laws** (Contract—Proper law of contract).

Sale of goods—

See **Sale of goods**.

Sale of land—

Memorandum of contract. *See* **Sale of land** (Memorandum of contract).

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Generally. *See* **Master and servant** (Contract of service).

Specific performance—

Interlocutory injunction. *See* **Injunction** (Interlocutory—Specific performance).

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Time—

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Time of the essence—

Shipping contract—Term in shipping contract that sellers to provide declaration of ship 'as soon as possible' after vessel's sailing—Sellers providing declaration over a month after sailing—Whether precise compliance with term required—Whether time of essence *Société Italo-Beige pour le Commerce et l'Industrie SA v Palm and Vegetable Oils (Malaysia) Sdn Bhd* [1982] 1 19, QBD.

Time charterparty. *See* **Shipping** (Time charterparty).

Unfair terms—

Exclusion of liability for misrepresentation—

Contract incorporating National Conditions of Sale, condition 17—Condition providing that errors, misstatements or omissions in answer to preliminary inquiry not to annul sale—Whether condition fair and reasonable—Misrepresentation Act 1967, s 3—Unfair Contract Terms Act 1977, s 11—National Conditions of Sale (19th edn), condition 17(1). *Walker v Boyle, Boyle v Walker* [1982] 1 634, ChD.

CONTROLLED DRUGS

Generally. *See* **Drugs**.

Importation—

Prohibition. *See* **Customs and excise** (Importation of prohibited goods—Drugs).

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Infringement—

Right of action—

Bootlegging—Persons entitled to bring action to prevent bootlegging—Action by record manufacturer and distributor—Record company having exclusive contract to sell performer's records—Performer having civil right of action against bootlegger under Performers' Protection Acts—Whether record company having similar right of action against bootlegger under Acts—Dramatic and Musical Performers' Protection Act 1958, s 1—Performers' Protection Act 1963, s 1. *Warner Bros Records Inc v Parr* [1982] 2 455, ChD.

Bootlegging—Persons entitled to bring action to prevent bootlegging—Action by record manufacturer and distributor—Record company having exclusive contract to sell performer's records—Whether performer having civil right of action against bootlegger under performers' protection legislation—Whether record company having similar right of action against bootlegger under legislation—Dramatic and Musical Performers' Protection Act 1958, s 1. *RCA Corp v Pollard* [1982] 3 771, CA.

Performance of dramatic or musical works—

Bootlegging—

Person entitled to bring action to prevent bootlegging. *See* Infringement—Right of action—Bootlegging, *ante*.

Public performance—

Bootlegging recordings—

Right of action. *See* Infringement—Right of action—Bootlegging, *ante*.

CORONER

Inquest—

Judicial review—

Jurisdiction of High Court—Application for judicial review not made or authorised by Attorney General—Extent of jurisdiction to review inquest proceedings—Coroners Act 1887, s 6. *R v Surrey Coroner, ex parte Campbell* [1982] 2 545, QBD.

Jurisdiction. *See* Jurisdiction—Inquest, *post*.

Jury—

Selection of jurors—Practice of selecting only men as jurors—Validity. *R v Surrey Coroner, ex parte Campbell* [1982] 2 545, QBD.

Verdict—

Lack of care—Rule against verdict determining civil liability on the part of named person—Inquest on death in remand centre—Coroner advising jury to return verdict of self-neglect—Whether lack of care a possible verdict—Whether such a verdict contravening requirements of rule against determining civil liability—Whether rule valid—Coroners (Amendment) Act 1926, ss 26, 27—Coroners Rules 1953, r 33. *R v Surrey Coroner, ex parte Campbell* [1982] 2 545, QBD.

Jurisdiction—

Inquest—

Death occurring abroad—Body brought to England and lying within coroner's district—Reasonable cause to suspect violent or unnatural death—Whether coroner having jurisdiction to hold inquest—Coroners Act 1877, ss 3(1), 7(1). *R v West Yorkshire Coroner, ex p Smith* [1982] 3 1098, CA.

CORPORATION TAX

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Group relief. *See* Income tax (Company—Group relief).

CORROBORATION

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Criminal proceedings. *See* Criminal evidence (Hearsay—Dying declaration—Corroboration).

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Generally. *See* Criminal law (Costs).

See Criminal law (Costs).

Divorce—

See Divorce (Costs).

Executor—

Action against. *See* Executor and administrator. (Action against—Costs of litigation).

Family Division—

Lump sum applications. *See* Practice (Family Division—Lump sum applications—Costs).

Interest on costs—

Date from which interest payable—

Orders for costs made in plaintiffs' favour in passing off action—Costs not taxed until after House of Lords hearing—Whether interest payable from date of orders or from date of taxation—Whether court has discretion to award interest on costs from date earlier than date of taxation—Judgments Act 1838, ss 17, 18. *Erven Warnink BV v J Townend & Sons (Hull) Ltd* [1982] 3 312, CA.

Solicitor—

Non-contentious business. *See* Solicitor (Costs—Non-contentious business—Interest).

Judgment in default of appearance or defence—

New practice and procedure. *See* Practice (Queen's Bench Division and Chancery Division—New practice and procedure).

Legal aid—

Taxation of costs. *See* Legal aid (Taxation of costs).

Unassisted person's costs out of legal aid fund. *See* Legal aid (Unassisted person's costs out of legal aid fund).

Magistrates' court—

Criminal proceedings. *See* Criminal law (Costs—Magistrates' court).

See Criminal law (Costs—Magistrates' court).

COSTS (cont)

Official Solicitor—

Practice—

Wardship proceedings. *See* **Ward of court** (Practice—Official Solicitor's costs).

Personal representative—

Action against personal representative. *See* **Executor and administrator** (Action against—Costs of litigation).

Solicitor—

Generally. *See* **Solicitor** (Costs).

Taxation. *See* **Taxation—Solicitor, post**.

Taxation—

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Interlocutory fees—Family Division. *See* **Practice** (Family Division—Counsel's fees—Interlocutory fees).

Leading counsel—Legal aid cases. *See* **Legal aid** (Taxation of costs—Counsel's fee—Leading counsel).

'Indemnity' basis—

Jurisdiction of court to order costs to be paid on 'indemnity' basis—Meaning of order for costs on an 'indemnity' basis—Supreme Court Act 1981, s 51(1)—RSC Ord 62, rr 28, 29. **EMI Records Ltd v Ian Cameron Wallace Ltd** [1982] 2 980, ChD.

Interest on costs. *See* **Interest on costs, ante**.

Legal aid. *See* **Legal aid** (Taxation of costs).

Solicitor—

Bill of costs for contentious business—Four bills delivered in successive months—Later bills including amounts of earlier bills as accounts stated—Taxation demanded within a month of receipt of fourth and final bill—Whether right to taxation extending to all four bills—Solicitors Act 1974, s 70. **Chamberlain v Boodle & King (a firm)** [1982] 3 188, CA.

Official Solicitor—Guardian ad litem—Wardship application—Practice. *See* **Ward of court** (Practice—Official Solicitor's costs—Appointment of Official Solicitor as guardian ad litem).

Solicitor and own client—

Jurisdiction of court to make order for costs on 'solicitor and own client' basis in inter partes proceedings—Supreme Court Act 1981, s 51(1)—RSC Ord 62, rr 28, 29. **EMI Records Ltd v Ian Cameron Wallace Ltd** [1982] 2 980, ChD.

Wardship proceedings—

Official Solicitor's costs—

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COUNCILLOR

Local government—

Inspection of documents in council's possession. *See* **Local government** (Documents—Inspection—Inspection by councillor).

COUNSEL

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Legally-aided client—

Duty owed to unassisted party and to legal aid fund—Breach of duty—Immunity from suit for work done in course of litigation—Immunity only applying in relation to counsel's own client. **Kelly v London Transport Executive** [1982] 2 842, CA.

Fees—

Family Division. *See* **Practice** (Family Division—Counsel's fees).

Taxation of costs—

Legal aid cases. *See* **Legal aid** (Taxation of costs—Counsel's fee).

COUNTERFEIT COINS

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Contempt of court—

Committal—

Jurisdiction—Breach of injunction. *See* **Contempt of court** (Committal—Breach of injunction—Jurisdiction—County court).

Costs—

Discretion—

Landlord and tenant cases. *See* **Costs—Landlord and tenant, post**.

Jurisdiction—

Extent of jurisdiction—Judge ordering taxation on particular scale and then limiting amount recoverable thereunder—Whether judge having power to limit amount recoverable under particular scale—CCR Ord 47. **Brown v Sparrow** [1982] 3 739, CA.

Landlord and tenant—

Discretion as to costs—Action to recover possession of domestic premises—Judge deciding that 'in view of the nature of the case' there should be 'severe limitations as to costs where people's home were at stake'—Judge imposing limit on amount of costs recoverable on taxation—Whether judge enunciating general rule as to costs in possession actions and thereby restricting exercise of discretion—CCR Ord 47, r 1. **Brown v Sparrow** [1982] 3 739, CA.

Injunction—

Exclusion of party from matrimonial home. *See* **Injunction** (Exclusion of party from matrimonial home—County court).

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Domestic violence. *See* **Injunction** (Husband and wife—Domestic violence).

Molestation—

Domestic violence. *See* **Injunction** (Molestation—Domestic violence).

Interim payment—

Jurisdiction to order interim payment. *See* **Jurisdiction—Interim payment, post**.

COUNTY COURT (cont)

Jurisdiction—

Committal for contempt of court—

Breach of injunction. *See* **Contempt of court** (Committal—Breach of injunction—Jurisdiction—County court).

Costs. *See* Costs—Jurisdiction, *ante*.

Injunction—

Exclusion of party from matrimonial home. *See* **Injunction** (Exclusion of party from matrimonial home—County court—Jurisdiction).

Interim payment—

Jurisdiction to order interim payment—County court rules not providing for interim payments—Whether equivalent High Court rules applicable—Whether county court having jurisdiction to order interim payment—County Courts Act 1959, s 103—Administration of Justice Act 1969, s 20—RSC Ord 29, r 10. *Felix v Shiva* [1982] 3 263, CA.

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Business premises—

Application for new tenancy—Service of documents. *See* **Practice**—Service of documents relating to application for new tenancy of business premises, *post*.

Practice—

Service of documents relating to application for new tenancy of business premises—

Failure to serve documents within prescribed time limit—Failure to apply for extension of time within currency of time limit—Jurisdiction to extend time—Exercise of discretion to extend time where jurisdiction—Tenant required to show exceptional or unusual circumstances accounting for failure to serve in time and failure not entirely his fault before jurisdiction to enlarge time—Factors to be taken into consideration in exercising discretion—Relative hardship of landlord and tenant—Tenant's remedy against his solicitors for failure to serve documents in time—CCR 1981 Ord 7, r 20, Ord 13, r 4, Ord 43, r 6(3). *Robert Baxendale Ltd v Davstone (Holdings) Ltd, Carobene v John Collier Menswear Ltd* [1982] 3 496, CA.

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Companies Court—

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Contempt of court. *See* **Contempt of court**.

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Appeal—

New practice and procedure. *See* **Practice**—New practice and procedure, *post*.

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Appeal following summary judgment—Objection to evidence—Objection not taken at first opportunity—Evidence in reply filed—Whether objection to admission of evidence waived. *Langdale v Danby* [1982] 3 129, HL.

Leave to appeal—

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Practice—

Civil Division—Registrar—Functions—Leave to appeal and time limit for notice of appeal—Listing and setting down appeals—Respondent's notice—Amendment of notices—List of forthcoming appeals—Directions by registrar—Applications and references to single judge—Constitution of Court of Appeal—RSC Ord 59. **Practice Note** [1982] 3 376, CA.

Registrar—

Functions in Civil Division of Court of Appeal. *See* **Practice**—New practice and procedure—Civil Division—Registrar, *ante*.

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New practice and procedure. *See* **Practice**—New practice and procedure, *ante*.

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Generally. *See* **Restrictive covenant affecting land**.

CRIMINAL EVIDENCE

Accomplice—

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Admissions and confessions—

Voluntary statement—

Requirement of voluntariness—Accused confessing in hope that he or someone close to him might benefit thereby—Admissibility of confession to be determined by judge—Approach to be adopted by judge in determining admissibility of confession. *R v Rennie* [1982] 1 385, CA.

CRIMINAL EVIDENCE (cont)

Assisting offender—

Evidence of commission of arrestable offence. *See Criminal law* (Assisting offender—Knowledge of accused—Evidence of commission of arrestable offence).

Character of accused—

Accused putting character in issue—

Accused's honesty principal matter in issue—Accused charged with false accounting and obtaining money on forged instrument—Accused cross-examined on contents of his legal aid application for purpose of discrediting him—Legal aid application not evidence in case—Whether cross-examination permissible—Whether miscarriage of justice by reason of cross-examination. *R v Stubbs* [1982] 1 424, CA.

Evidence against co-accused—

Evidence against—Meaning—Guidelines for determining whether accused has given evidence against co-accused—Right of co-accused to cross-examine where evidence has been given against him—Criminal Evidence Act 1898, s 1(f)(iii). *R v Varley* [1982] 2 519, CA.

Co-accused—

Meaning. *See* Character of accused—Evidence against co-accused—Evidence against—Meaning, *ante*.

Compellability as witness—

Spouse as witness for prosecution—

Wife competent but not compellable witness against husband—Wife having right to refuse to give evidence up to time she enters witness-box—Wife's right not affected by previous witness statement or evidence given in committal proceedings—Effect of wife waiving right to refuse to give evidence against husband. *R v Pitt* [1982] 3 63, CA.

Confession—

Generally. *See* Admissions and confessions, *ante*.

Corroboration—

Accomplice—

Evidence capable of amounting to corroboration—Meaning. *R v Beck* [1982] 1 807, CA.

Dying declaration. *See* Hearsay—Dying declaration—Corroboration, *post*.

Evidence of witness having purpose of own to serve—

No suggestion that witness accomplice of accused—Whether warning of danger of acting on uncorroborated evidence of witness necessary. *R v Beck* [1982] 1 807, CA.

Cross-examination—

Complainant—

Sexual offence. *See* Sexual offence—Cross-examination of complainant about previous sexual experience with other men, *post*.

Extradition proceedings—

Evidence sufficient to justify committal. *See* Extradition (Committal—Evidence).

Hearsay—

Dying declaration—

Corroboration—Murder—Statement of victim implicating accused—Statement admitted as a dying declaration—Absence of corroboration—Whether jury should be warned of danger of relying on statement in absence of corroboration. *Nembhard v The Queen* [1982] 1 183, PC.

Evidence at earlier trial—

Transcript of evidence—Admissibility at retrial on same charge. *See* Witness—Transcript of witness's evidence—Admissibility at defendant's retrial on same charge, *post*.

Legal aid application—

Use of legal aid application for purpose of cross-examining accused as to his credit. *See* Legal aid (Criminal cases—Evidence).

Prosecution evidence—

Disclosure of information to defence—

Trial on indictment—Unused material—Guidelines for disclosure. *Practice Note* [1982] 1 734.

Sexual offence—

Cross-examination of complainant about previous sexual experience with men—

Restrictions on evidence—When judge should give leave to cross-examine complainant—Whether Court of Appeal entitled to substitute own decision to give or refuse leave to cross-examine—Sexual Offences (Amendment) Act 1976, s 2. *R v Viola* [1982] 3 73, CA.

Spouse—

Compellability as witness for prosecution. *See* Compellability as witness—Spouse as witness for prosecution, *ante*.

Trial—

Evidence in absence of jury. *See* Criminal law (Trial—Evidence in absence of jury).

Witness—

Transcript of witness's evidence—

Admissibility at defendant's retrial on same charge—Whether transcript admissible at retrial if witness too ill to attend court. *R v Thompson* [1982] 1 907, CA.

CRIMINAL LAW

Acquittal—

Certiorari to quash—

Acquittal obtained as a result of perjured evidence. *See* Certiorari (Fraud—Perjury—Acquittal obtained as a result of perjured evidence).

Admissions and confessions—

Generally. *See* Criminal evidence (Admissions and confessions).

Appeal—

Order for retrial. *See* Trial—Retrial—Order for retrial—Power of appeal court, *post*.

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Arson. *See* Damage to property—Arson, *post*.

Assisting offender—

Knowledge of accused—

Evidence of commission of arrestable offence—Offender and person accused of assisting him tried together—Admission by offender out of court that he had committed arrestable offence—Whether admission could be used as evidence against person accused of assisting him—Criminal Law Act 1967, s 4(1). *R v Spinks* [1982] 1 587, CA.

CRIMINAL LAW (cont)

Attempt—

Pervverting course of justice. *See* Obstructing course of justice—Attempting to pervert course of justice, *post*.

Bail—

Exceptions to right to bail—

Defendant accused or convicted of imprisonable offence—Matters to be considered by court of committal in deciding whether to grant bail—Examination of defendant by prison doctor—Desirability of remanding defendant in custody pending examination. *R v Vernege* [1982] 1 403, CA.

Bankruptcy order—

Jurisdiction to make order—

Conviction of conspiracy to defraud—Acts committed in pursuance of conspiracy resulting in loss—Whether loss suffered 'as a result of offence' of conspiracy—Powers of Criminal Courts Act 1973, s 39(1)(a). *R v Reilly* [1982] 3 27, CA.

Binding-over order—

Appeal to Crown Court against order made by magistrates—

Procedure. *See* Crown Court (Appeal to Crown Court—Procedure at appeal—Appeal against binding-over order made by magistrates).

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Public order. *See* Public order.

Case stated—

Generally. *See* Case stated.

Coinage offence—

Making counterfeit coins resembling current coinage—

Intent—Whether intent to defraud by uttering counterfeit coins necessary ingredient of offence—Whether mere act of producing counterfeit coins an offence—Coinage Offences Act 1936, s 1(1). *R v Heron* [1982] 1 993, HL.

Committal—

Bail. *See* Bail, *ante*.

Crown Court. *See* Crown Court (Committal for trial at Crown Court).

Preliminary hearing before justices—

Costs. *See* Costs—Magistrates' court—Indictable offences—Summary trial or inquiry as examining justices, *post*.

Delay—Effect. *See* Time—Time limit for bringing prosecution—Delay—Delay in holding committal proceedings, *post*.

Newspaper report—Contempt of court—Order postponing publication—Risk of prejudice to administration of justice—Jurisdiction of magistrates hearing committal proceedings to order postponement of publication of proceedings—Whether breach of order a contempt of court—Criminal Justice Act 1967, s 3—Contempt of Court Act 1981, s 4(2). *R v Horsham Justices, ex parte Farquharson* [1982] 2 269, QBD & CA.

Trial—

Crown Court. *See* Crown Court (Committal for trial at Crown Court).

Company—

Auditor—

Acting as auditor when disqualified—Mens rea—Director acting as auditor—Director ignorant of law disqualifying him from acting as auditor—Whether knowledge of law an ingredient of offence—Whether ignorance of law a defence—Companies Act 1976, s 13(5)(6). *Secretary of State for Trade and Industry v Hart* [1982] 1 817, QBD.

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Conspiracy—

Drugs—

Evasion of prohibition on importation of drugs. *See* Customs and excise (Importation of prohibited goods—Drugs—Evasion of prohibition—Conspiracy to evade prohibition).

Controlled drugs. *See* Drugs (Controlled drugs).

Costs—

Magistrates' court—

Indictable offences—Summary trial or inquiry as examining justices—Exercise of powers to award costs—Dismissal of information or decision not to commit accused for trial—Costs of defence normally to be awarded out of central funds—Costs in Criminal Cases Act 1973, ss 1, 2, 12(1). *Practice Note* [1982] 3 1152, QBD.

Just and reasonable costs—Magistrates imposing costs of £575 on 37 undefended charges under food hygiene regulations—Magistrates using scale of legal aid costs as yardstick and multiplying costs by number of charges—Whether magistrates' order as to costs 'just and reasonable'—Costs in Criminal Cases Act 1973, s 2(2). *R v Tottenham Justices, ex parte Joshi* [1982] 2 507, QBD.

Just and reasonable costs—Magistrates not having sufficient material to enable just determination on costs—Magistrates ordering costs to be taxed by justices' clerk—Whether magistrates having jurisdiction to do so—Costs in Criminal Cases Act 1973, s 2(1). *Bunston v Rawlings* [1982] 2 697, QBD.

Counterfeit coins—

Making counterfeit coins resembling current coins. *See* Coinage offence—Making counterfeit coins resembling current coin, *ante*.

Court of Appeal—

Order for retrial—

Power to make order. *See* Trial—Retrial—Order for retrial—Power of appeal court, *post*.

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Customs and excise offences. *See* Customs and excise.

Damage to property—

Arson—

Actus reus—Coincidence of actus reus and mens rea—Accused accidentally starting fire—Accused later having opportunity to put out fire—Accused failing to do so—Property damaged as a result—Whether omission of accused to act a sufficient actus reus—Whether coincidence of actus reus and mens rea—Criminal Damage Act 1971, s 1(1), (3). *R v Miller* [1982] 2 386, CA.

CRIMINAL LAW (cont)

Damage to property (cont)—

Arson (cont)—

Defence—Lawful excuse—Accused believing that owner of damaged property consenting to damage—Employer asking employee to set fire to machinery in mill so that employer could make fraudulent claim against insurers—Whether person 'entitled' to consent to damage being done to his own property for fraudulent purpose—Whether an offence for person to destroy or damage own property for fraudulent purpose—Criminal Damage Act 1971, ss 1(1), (2), 5(2)(a). *R v Denton* [1982] 1 65, CA.

Dishonesty—

Theft. *See* Theft—Dishonesty, *post*.

Duress as a defence—

Murder—

Test of duress—Whether test subjective or objective or both—Defendant succumbing to threats of duress while under influence of drink and drugs—Whether sober person of reasonable firmness would have succumbed to duress imposed on defendant. *R v Graham* [1982] 1 801, CA.

Evidence. *See* Criminal evidence.

Explosives. *See* Explosives.

Extradition—

Generally. *See* Extradition.

See Extradition.

Forfeiture order. *See* Sentence (Forfeiture order).

Handling stolen goods—

Assisting in their retention—

Wife using stolen goods brought home by husband—Wife making verbal representations to police searching house that goods not stolen in order to protect husband—Whether mere use of stolen goods constituting assisting in their retention—Whether verbal representations amounting to 'assisting' in retention of goods—Theft Act 1968, s 22(1). *R v Kanwar* [1982] 2 528, CA.

Undertaking or assisting in retention etc—

Realisation of goods—Realisation of goods to innocent purchaser believing them to be stolen—Accused purchasing car which he subsequently suspected was stolen—Accused disposing of car to innocent purchaser without appropriate documents for less than true value—Whether accused undertaking or assisting in realisation of car 'for the benefit of another person'—Whether person for whose benefit goods realised limited to principal for whom accused acting as agent—Whether person for whose benefit goods realised including anyone deriving benefit from purchase of goods—Theft Act 1968, s 22(1). *R v Bloxham* [1982] 1 582, HL.

Homicide—

Manslaughter—

Generally. *See* Manslaughter, *post*.

Impeding apprehension or prosecution of arrestable offender. *See* Assisting offender, *ante*.

Information—

Jurisdiction of magistrates. *See* Magistrates (Jurisdiction—Trial of information).

Insulting behaviour—

Offensive conduct conducive to breaches of peace—

Public order. *See* Public order (Offensive conduct conducive to breaches of peace—Threatening, abusive or insulting words or behaviour).

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Libel—

Leave to commence proceedings—

Discretion of judge—Material judge entitled to consider in determining whether criteria for leave existing—Criteria for granting leave consisting of prima facie case to answer and public interest in institution of criminal proceedings—Libel by newspaper—Whether proposed plea of justification to be taken into account and weighed against applicant's evidence—Law of Libel Amendment Act 1888, s 8. *Desmond v Thorne* [1982] 3 268, QBD.

Loitering—

Suspected persons and reputed thieves—

Frequenting or loitering with intent. *See* Vagrancy—Frequenting or loitering with intent, *post*.

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Generally. *See* Magistrates.

Manslaughter—

Causing death by unlawful act—

Dangerous and unlawful act—Controlled drug unlawfully supplied by one drug addict to another—Deceased addict injecting himself with drug and thereby causing his death—Whether supply of drug a dangerous act—Whether unlawful act must be directed at the victim and be likely to cause him immediate injury. *R v Dalby* [1982] 1 916, CA.

Murder—

Bail. *See* Bail—Exceptions to right to bail—Defendant accused or convicted of imprisonable offence—

Murder, *ante*.

Duress as a defence. *See* Duress as a defence—Murder, *ante*.

Obstructing constable in execution of duty—

Execution of duty—

Police patrolling outside public house in case offence committed—Police patrolling outside public house in case offence committed—Plain clothes constable in public house to observe breach of licensing laws and inform patrol of breach—Licensee warned of police observation—Whether offence of obstructing police in execution of duty committed—Whether police executing their duty while on patrol outside public house in case an offence committed—Police Act 1964, s 51(3). *Green v Moore* [1982] 1 428, QBD.

Obstruction—

Acts amounting to obstruction—Warning to postpone commission of crime until danger of detection passed—Whether warning amounting to an obstruction—Whether warning a person to enable him to postpone the commission of a crime amounting to obstruction—Whether necessary for prosecution to prove person warned already committing crime at time of warning—Police Act 1964, s 51(3). *Green v Moore* [1982] 1 428, QBD.

CRIMINAL LAW (cont)

Obstructing course of justice—

Attempting to pervert course of justice—

Attempt—Ingredients of offence—Accused tampering with blood sample provided by him under road traffic legislation—Accused subsequently submitting sample for analysis—Evidence of intention to pervert course of justice—Whether accused's conduct having tendency to pervert course of justice. **R v Murray** [1982] 2 225, CA.

No pending proceedings—

Removal of endorsement from driving licence—Clerk at licence centre agreeing with driver to arrange unlawfully to remove endorsement from driver's licence—Driver not entitled to removal of endorsement—No proceedings pending, imminent or being investigated with respect to driver—No actual proceedings within contemplation of clerk or driver—Clerk and driver charged with conspiring to pervert course of justice—Whether removal of endorsement constituting perverting course of justice—Whether intent to pervert course of justice an essential ingredient of offence. **R v Selva** [1982] 1 96, CA.

Obtaining property by deception—

Deception—

False representation—Accused dishonestly obtaining payee's indorsement of cheque—Payee not authorising payment of cheque to accused—Accused presenting indorsed cheque to his bank for payment—Whether presentation of cheque with indorsement amounting to false representation that payee authorising payment of cheque to accused—Theft Act 1968, s 15(1)(4). **R v Davies** [1982] 1 513, CA.

Dishonesty—

Test to be applied in determining whether accused was dishonest—Whether test of dishonesty subjective or objective—Theft Act 1968, ss 1(1), 15(1). **R v Ghosh** [1982] 2 689, CA.

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Power to retain property relevant to criminal proceedings. *See* Police (Powers—Power to retain property relevant to criminal proceedings).

Prison breach—

Permitting escape from lawful custody—

Lawfulness of custody not shown—Whether Crown required to prove lawfulness of custody—Whether lawfulness of custody may be presumed. **Dillon v R** [1982] 1 1017, PC.

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Proceedings—

Duties of Director of Public Prosecutions—

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Recklessness as to whether victim consented—Meaning of reckless—Direction to jury—Sexual Offences (Amendment) Act 1976, s 1. **R v Pigg**, [1982] 2 591, CA.

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Matters to be considered. **R v Roberts** [1982] 1 609, CA.

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Sexual offence—

Cross-examination of complainant about previous sexual experience with other men. *See* Criminal evidence (Sexual offence—Cross-examination of complainant about previous sexual experience with other men).

Summary trial—

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Handling stolen goods—

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Obtaining property by deception—

Generally. *See* Obtaining property by deception, *ante*.

CRIMINAL LAW (cont)

Theft (cont)—

Property belonging to another—

Accused getting payee of cheque to indorse cheque and hand it over to accused—Payee not aware he was indorsing a cheque and believing he was merely signing a piece of paper—Whether accused guilty of theft of cheque—Whether property in cheque passing to accused by reason of indorsement—Whether necessary for Crown to establish plea of non est factum in regard to indorsement to prove property in cheque remaining in payee—Theft Act 1968, s 1(1). *R v Davies* [1982] 1 513, CA.

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Defence—

Lawful excuse—Defendant making threat to kill reasonably believing recipient of threat intending to kill him—Whether lawful excuse an issue for jury—Whether sufficient for prosecution to prove making threat intending it should be believed—Offences against the Person Act 1861, s 16 (as amended by Criminal Law Act 1977, Sch 12). *R v Cousins* [1982] 2 115, CA.

Time—

Time limit for bringing prosecution—

Delay—Delay in holding committal proceedings—Defendant suspected in January 1980 of having committed offence—Prosecution unprepared to proceed on date fixed for committal proceedings—Magistrates finally refusing to adjourn proceedings in August 1981—Defendant discharged because no evidence offered by prosecution—Prosecution commencing fresh proceedings in December 1981 in respect of same offence—Whether delay on part of prosecution rendering fresh proceedings vexatious and abuse of process of court. *R v Grays Justices, ex p Graham* [1982] 3 653, QBD.

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Generally. *See Magistrates* (Summary trial).

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Proceedings against Crown in right of Canada—Whether proceedings against Crown in right of Canada can be brought against United Kingdom government—British North America Act—Statute of Westminster 1931. *R v Secretary of State for foreign and Commonwealth Affairs, ex parte Indian Association of Alberta* [1982] 2 118, CA.

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Binding over—

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Terms of order—Defendant bound over on condition that he went with his mother to Jamaica and did not return for five years—Defendant a British subject who had been born and brought up in England and who had never lived in Jamaica—Defendant reluctantly consenting to terms of order on learning that the alternative was a custodial sentence—Whether order appropriate in the circumstances. *R v Williams (Carl)* [1982] 3 1086, CA.

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Procedure—

Committal certificate—Legislation conferring power to commit replaced by later legislation—Proceedings commenced before new legislation in operation—Committal required to be made under old legislation—New and old legislation in similar terms—Committal certificate sent to Crown Court stating committal made under new legislation—Whether certificate constituting committal—Whether committal invalidated—Whether bill of indictment based on committal invalidated—Magistrates' Courts Act 1980, s 6(2), Sch 8, para 2(1)—Magistrates' Courts Rules 1968, r 10(2)(j). *R v Hall* [1982] 1 75, CA.

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Bretton Woods Agreements—Exchange contracts—Enforceability—Exchange contract involving currency of member of International Monetary Fund and contrary to exchange control regulations of that member—Meaning of 'exchange contract'—Contract for sale of goods—Peruvian resident buying goods from English company at inflated US dollar price and requesting excess to be deposited in bank in United States of America—Peruvian exchange control regulations prohibiting Peruvian residents from maintaining foreign currency accounts in Peru or abroad—Whether 'exchange contract' and therefore unenforceable in England—Whether contract only partly an 'exchange contract'—Whether contract enforceable as to part relating to genuine price of goods and freight—Bretton Woods Agreements Order in Council 1946 (SR & O 1946 No 36), Sch, Part I, art VIII, s 2(b). *United City Merchants (Investments) Ltd v Royal Bank of Canada* [1982] 2 720, HL.

CUSTODY

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Knowingly concerned in fraudulent evasion of prohibition or restriction—

Fraudulent—Whether necessary to prove that acts of deceit practised in presence of customs officer—Whether sufficient to prove dishonest conduct which was deliberately intended to evade prohibition or duty—Customs and Excise Management Act 1979, s 170(2). *Attorney General's Reference (No 1 of 1981)* [1982] 2 417, CA.

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DAMAGE (cont)

Damages—

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Remoteness of damage—

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Assessment—

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Fatal accident. *See* **Fatal accident** (Damages).

Interest—

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Generally. *See* **Contract** (Damages for breach).

Detinue. *See* **Detinue** (Damages—Measure of damages).

Fatal accident. *See* **Fatal accident** (Damages).

Negligence—

Building—Surveyor's report to purchaser negligently failing to disclose defects—Substantial repairs required to remedy defects—Purchaser of building intending to occupy property and repair defects—Whether appropriate measure of damages cost of repairs or difference between purchase price and value of property as it should have been described. **Perry v Sidney Phillips & Son (a firm)** [1982] 3 705, CA.

Mitigation of loss—

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Defendant's conduct—Surveyor's report to purchaser negligently failing to disclose defects in building—Substantial repairs required to remedy defects—Purchaser unable to afford cost of repairs—Surveyor's conduct causing purchaser to conclude that surveyor would not accept liability—Whether purchaser's impecuniosity and surveyor's conduct reasonably foreseeable causes of purchaser's failure to carry out repairs—Whether purchaser required to mitigate loss by carrying out repairs as soon as possible. **Perry v Sidney Phillips & Son (a firm)** [1982] 3 705, CA.

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Nervous shock—

Plaintiff's family either killed or badly injured in road accident caused by defendant's negligence—Plaintiff at home at time of accident—Plaintiff informed of accident and going to hospital—Plaintiff suffering nervous shock as a result—Whether defendant owing duty of care to plaintiff—Whether plaintiff's injury reasonably foreseeable—Whether as matter of policy court would not impose duty of care on defendant to plaintiff. **McLoughlin v O'Brian** [1982] 2 298, HL.

Policy limitations—Whether policy requiring legal limitations on recovery of damages for nervous shock. **McLoughlin v O'Brian** [1982] 2 298, HL.

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Deductions—Supplementary benefit—Plaintiff in need as direct consequence of injuries and receiving supplementary benefit—Whether supplementary benefit deductible from special damages. **Lincoln v Hayman** [1982] 2 819, CA.

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Detention of raw materials used by metal refiners—Refiners not adducing evidence of actual loss caused by defendants' wrongful detention—Whether refiners entitled to difference between market value of copper at time detained and time delivered up—Whether refiners limited to actual loss sustained—Whether refiners required to prove actual loss. **Brandeis Goldschmidt & Co v Western Transport Ltd** [1982] 1 28, CA.

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DEVELOPMENT LAND TAX

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Time of disposal—

Compulsory acquisition of interest in land—Taxpayer serving purchase notice on planning authority—Acceptance of purchase notice by planning authority—Parties subsequently agreeing amount of compensation—Deemed compulsory acquisition of interest in land—When interest in land disposed of for purposes of liability to tax—Town and Country Planning Act 1971, s 181(1)(2)—Development Land Tax Act 1976, s 45(2), (4). **Inland Revenue Comrs v Metrolands (Property Finance) Ltd** [1982] 2 557, HL.

DIRECTOR

Company—

Generally. *See* **Company** (Director).

Income tax—

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Confidential documents—Confidential reports by psychologists on school pupil—Teacher bringing action against education authority for personal injuries following attack by violent pupil—Teacher contending reports showed education authority had knowledge of pupil's violent disposition—Whether teacher entitled to inspect reports—Whether reports privileged on grounds of confidentiality—Whether disclosure necessary for proceedings to be fairly disposed of. *Campbell v Tameside Metropolitan Borough Council* [1982] 2 791, CA.

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Limited company—Declaration made by company's solicitor—Validity of declaration—Law of Distress Amendment Act 1908, s 1. *Lawrence Chemical Co Ltd v Rubinstein* [1982] 1 653, CA.

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Discovery. *See* Practice—Ancillary relief—Application for monetary provision—Discovery, *post*.

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Practice. *See* Practice—Children, *post*.

Costs—

Ancillary proceedings—

Discretion to award costs on common fund basis—Special or unusual feature of case required to justify award on common fund basis—Extreme dilatoriness and lack of co-operation by husband's solicitors increasing costs incurred by wife—Whether judge entitled to award wife costs on common fund basis—RSC Ord 62, r 28(3). *Preston v Preston* [1982] 1 41, CA.

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Application for leave to apply for decree to be made absolute—

Application made out of time—Cohabitation after decree nisi—Wife's cohabitation after decree nisi reasonable in all the circumstances—Whether court should exercise discretion to make decree nisi absolute out of time notwithstanding cohabitation after decree nisi—Matrimonial Causes Rules 1977 (SI 1977 No 344), r 65(2) proviso. *Court v Court* [1982] 2 531, FamD.

Application made out of time—Cohabitation after decree nisi—Factors to be considered in exercising discretion to grant or refuse application—Matrimonial Causes Rules 1977, r 65(2) proviso. *Savage v Savage* [1982] 3 49, FamD.

Discovery—

Application for monetary provision. *See* Practice—Ancillary relief—Application for monetary provision—Discovery, *post*.

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Application—

Remarriage of party—Party not entitled to apply for order after remarriage—Statutory provision—Retrospective operation—Party remarrying before provision coming into force—Whether party entitled to apply for ancillary relief against former spouse after provision coming into force—Whether provision retrospective—Matrimonial Proceedings and Property Act 1970, s 7(4). **Bonning v Dodsley** [1982] 1 612, CA.

Consent order—

Disclosure—Full and frank disclosure of respondent's financial position—Setting aside consent order where disclosure not full and frank. **Robinson v Robinson** [1982] 2 699, CA.

Setting aside order—Jurisdiction—Consent order incorporating terms agreed between spouses—Spouse subsequently alleging that agreement had been obtained as a result of undue influence by other spouse—Whether undue influence a ground for setting aside consent order. **Tommey v Tommey** [1982] 3 385, FamD.

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Factors to be regarded—Wealthy husband—Husband having very substantial realisable assets—Husband enjoying very high standard of living with second wife—First wife having no assets other than matrimonial home—Judge awarding first wife lump sum of £600,000—Whether award excessive—Whether there should be a ceiling on an award where husband very wealthy—Whether wife's requirements to be measured by husband's post-divorce living standards—Whether award should include unspecified sum for maintenance of young child of marriage—Whether there should be separate order for periodical payments for maintenance of child—Matrimonial Causes Act 1973, s 25(1). **Preston v Preston** [1982] 1 41, CA.

Factors to be regarded—Application of one-third rule—Marriage of short duration and no children—Both parties earning—Husband's principal asset a one-man business he did not wish to sell—Wife not seeking order for periodical payments because parties wanted to make a clean break but applying for lump sum and transfer of husband's interest in matrimonial home—Judge ordering transfer of husband's interest in home to wife and making lump sum order—Lump sum order based on valuation of husband's business on a sale taken together with the parties' other capital assets to which one-third rule applied—Whether appropriate case for lump sum order in addition to order for transfer of matrimonial home to wife—Whether one-third rule appropriate guideline in cases involving distribution of capital as opposed to income of the parties—Matrimonial Causes Act 1973, s 25(1). **Potter v Potter** [1982] 3 321, CA.

Jurisdiction—Order for lump sum to be paid by instalments and for interest to be paid on instalments—Whether interest can be awarded on lump sum payable by instalments—Matrimonial Causes Act 1973, s 23. **Preston v Preston** [1982] 1 41, CA.

Setting aside order—

Final order—Fraud, mistake or material non-disclosure—Practice—Appeal against order or action to set order aside—Advantages of bringing action to set order aside. **Robinson v Robinson** [1982] 2 699, CA.

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Petition—

Petition within three years of marriage—

Discretion to allow—Exceptional hardship or exceptional depravity—Criteria for leave—Evidence required—Matrimonial Causes Act 1973, s 3(2)—Matrimonial Causes Rules 1977, r 5(2)(a). **Fay v Fay** [1982] 2 922, HL.

Exceptional hardship—Hardship including future hardship—Matrimonial Causes Act 1973, s 3(2). **Fay v Fay** [1982] 2 922, HL.

Practice—

Ancillary relief—

Application for monetary provision—Discovery—Anton Piller orders—Inspection of property—Document not subject matter of action—Jurisdiction of Family Division to make order. **Emanuel v Emanuel** [1982] 2 342, FamD.

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Custody—Access—Contested applications—Conciliation—Conciliation before registrar and court welfare officer—Subsequent applications—Legal aid. **Practice Direction** [1982] 3 988, FamD.

Report of court welfare officer—Disclosure of contents of report—Disclosure to person not party to proceedings or legal adviser to such a party—Contempt of court—Notice to appear on all reports. **Practice Direction** [1982] 1 512, FamD.

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Property—

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Matrimonial home—Matters to be considered—Home held in joint names on trust for sale—Home of small value—Husband securely housed in council accommodation—Wife having to provide home for three youngest children aged 18 and under—Whether sale of matrimonial home should be postponed during wife's lifetime or only until home no longer required for children—Whether wife should pay husband occupation rent—Matrimonial Causes Act 1973, s 25(1). **Harvey v Harvey** [1982] 1 693, CA.

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Local authority. *See* Local government (Documents—Inspection).

Local authority. *See* Local government (Documents).

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Doctor obtaining controlled drugs by claiming they were for professional purposes—Doctor administering drugs to himself—Whether doctor may prescribe controlled drug for himself in his capacity as a doctor—Whether doctor unlawfully in possession of controlled drugs—Misuse of Drugs Regulations 1973 reg 10(1). *R v Dunbar* [1982] 1 188, CA.

Visible and measurable particles—Traces of cannabis resin in plastic bag in tin—Chemical analysis showing quantity as 5 mg—Whether quantity of resin too minute to be recognised by law—Misuse of Drugs Act 1971, s 5(2). *R v Boyesen* [1982] 2 161, HL.

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Prohibition—

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ECCLESIASTICAL LAW (cont)

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Petition—

Jurisdiction—Jurisdiction of bishop to hear and determine petition. *Re St Mary's, Barnes* [1982] 1 456, Con Ct.

Petition—

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Inspection—Reports made on pupil by education authority pursuant to statutory duties—Teacher bringing action against education authority for personal injuries following attack by violent pupil—Teacher contending reports showed education authority had knowledge of pupil's violent disposition—Whether teacher entitled to inspect reports—Whether reports privileged on grounds of confidentiality—Whether disclosure necessary for proceedings to be fairly disposed of. *Campbell v Thameside Metropolitan Borough Council* [1982] 2 791, CA.

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University—

Grant for study—

Local authority grant—Eligibility—Student entitled to grant from local authority for university study if ordinarily resident in United Kingdom for three years—Ordinarily resident—Education Act 1962, s 1—Local Education Authority Awards Regulations 1979, reg 13(a). *R v Barnet London Borough Council, ex parte Shah* [1982] 1 698, CA.

ELECTIONS

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Rejection—Papers not marked with official stamp—Omission by election officer—Omission affecting result of election—Necessity to hold new election—Representation of the People Act 1949, s 37(1). *Ruffle v Rogers* [1982] 3 157, CA.

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Emoluments—

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Equal pay for equal work—

Pay—Termination of employment—Contributions to retirement benefits scheme—Employer paying contributions of female employees under 25—Other employees paying contributions out of their salaries by deductions at source made by employer in employees' names—Employees other than females under 25 entitled on termination of employment to refund of contributions made in their names—Whether female employees under 25 entitled on termination of employment to sum equal to amount of contribution refund they would have received if they were male employees engaged in like work—Equal Pay Act 1970, ss 1(1), 2(5)—EEC Treaty, art 119. *Worringham v Lloyds Bank Ltd* [1982] 3 373, CA.

European Economic Community—

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Family income supplement. *See* Family income supplement.

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Time off—

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Trust and trustee. *See* Trust and trustee.

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Unincorporated association—Religious organisation—Former member of religious order suing present member as representative of all members of order—Plaintiff claiming repayment of sums paid by him to order during his membership—Claim based on presumption of undue influence—Defendant applying to dismiss action as disclosing no reasonable cause of action—Whether claim based on presumption of undue influence can be raised against unincorporated association—Whether fiduciary relationship between parties—Whether action properly constituted as representative action—RSC Ord 15, r 12. *Roche v Sherrington* [1982] 2 426, ChD.

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Reference to European Court—

Referral by court of member state of question regarding validity of EEC enactment—

Referral by magistrates' court—Power to make referral—Magistrates' court referring question of validity of EEC regulation at close of prosecution case on defence submission of no case to answer to ground EEC regulation invalid—Facts still in issue—Whether magistrates' court having power to make referral where issues of fact still to be determined—Whether even if court has heard all the evidence desirable that referral be made by superior court—EEC Treaty, art 177. *R v Plymouth Justices, ex parte Rogers* [1982] 2 175, QBD.

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Rules on competition—

Abuse of dominant position—

Remedy—Statutory undertaking sole supplier in United Kingdom of bulk butter—Undertaking selling butter to 20 distributors in United Kingdom including plaintiff for resale to EEC countries—Undertaking subsequently deciding to limit sale to only four distributors excluding plaintiff—Decision taken in good faith to protect undertaking's commercial interests—Whether 'abuse ... of a dominant position within ... a substantial part' of Common Market—Whether remedy of injunction available to plaintiffs—Whether remedy restricted to damages—EEC Treaty, art 86. *Garden Cottage Foods Ltd v Milk Marketing Board* [1982] 3 292, CA.

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Criminal proceedings. *See* Criminal evidence.

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Person subject to military law—

Member of armed forces of foreign state. *See* Constitutional law (Foreign sovereign state—Armed forces of foreign state—Deserter or absentee without leave from forces of designated country)

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Examination by judge—Circumstances in which examination may be before judge and not examiner—Burden on litigant seeking examination before judge—Conduct of examination—Powers of judge to be agreed before examination—RSC Ord 39, r 1(1). *Re Brickman's Settlement, Brickman v Goddard Trustees (Jersey) Ltd* [1982] 1 336, ChD.

EVIDENCE (cont)

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Experts' reports—

Alteration of reports—Reports not to be 'settled' by counsel—Reports to be independent product of expert. *Kelly v London Transport Executive* [1982] 2 842, CA.

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Examination of witness in relation to matters pending before foreign tribunal—

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Improperly obtained evidence—

Admissibility in civil proceedings. *See* Document (Admissibility in evidence—Illegally or improperly obtained evidence).

Medical evidence—

Expert witnesses—

Number of witnesses—Plaintiff alleging negligence—Defendant admitting doctrine of *res ipsa loquitur* applicable—Whether issue remaining on which expert medical witnesses could give evidence. *Brown v Merton, Sutton and Wandsworth Area Health Authority (Teaching)* [1982] 1 650, CA.

Privilege—

Incrimination of witness or spouse—

Exception to rule against self-incrimination—Proceedings for recovery of property—Self-incrimination in theft in proceedings for recovery of property not protected—Tracing order requiring defendant to give details of whereabouts of proceeds of cheque and how they were applied—Defendant claiming that compliance with order would expose him to risk of criminal prosecution for both theft and forgery of cheque—Defendant claiming that exception to rule against self-incrimination did not apply because of risk of prosecution for forgery—Whether defendant excused from disclosure under tracing order—Theft Act 1968, s 31(1). *Khan v Khan* [1982] 2 60, CA.

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Witness—

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Sufficient cause to refuse to make order absolute—At date of exercise of discretion resolution existing to wind up debtor company on ground of insolvency—Inevitable debtor would go into liquidation but only tentative scheme of arrangement agreed to by creditors representing only 55 per cent of total debts—Whether there existed sufficient cause to refuse to make absolute order nisi previously obtained by one of creditors—Whether fact debtor insolvent and would inevitably go into liquidation sufficient cause for refusing to make order absolute—Whether to justify refusal to make order absolute also necessary to show scheme of arrangement on foot agreed to by main body of creditors which was likely to succeed. *Roberts Petroleum Ltd v Kerry Ltd* [1982] 1 685, CA.

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Renewal of writ—Writ to be renewed before expiry when interpleader proceedings protracted by reason of adjournment—Extensions not capable of being backdated—RSC Ord 46, r 8(2). *Practice Direction* [1982] 1 319, QBD.

EXECUTOR AND ADMINISTRATOR

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Costs of litigation—

Action by beneficiary under will claiming entire estate—If beneficiary's action successful, executor no longer holding any part of estate—Whether executor's costs in defending action ought to be paid out of estate—RSC Ord 62, r 6(2). *Re Dallaway (deceased)* [1982] 3 118, ChD.

EXECUTOR AND ADMINISTRATOR (cont)

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Will naming executors resident abroad—No steps taken to obtain probate in England—Assets transferred out of jurisdiction—Crown claiming executors liable for capital transfer tax—Official Solicitor appointed administrator ad colligenda bona—Whether Official Solicitor properly appointed—Supreme Court of Judicature (Consolidation) Act 1925, s 162(1) proviso (b). *Inland Revenue Comrs v Stype Investments (Jersey) Ltd, Re Clore (deceased)* [1982] 3 419, CA.

Capital transfer tax—

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Costs—

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Executor—

Literary executor—

Charging clause—Professional charging clause—Charging clause providing that 'any trustee' entitled to charge for services—Whether literary executor a 'trustee' and entitled to charge remuneration for dealing with literary estate. *Re Orwell's Will Trusts, Dixon v Blair* [1982] 3 177, ChD.

Survival of cause of action—

Contribution between joint tortfeasors—

Survival of claim for contribution on death of one joint tortfeasor. *See* **Tort** (Contribution between joint tortfeasors—Survival of claim for contribution on death of one joint tortfeasor).

EXPERT

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Experts' reports. *See* **Evidence** (Expert—Experts' reports).

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Generally. *See* **Evidence** (Medical evidence).

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Explosive substance—Whether petrol bomb an 'explosive substance'—Explosives Act 1875, s 3—Explosive Substances Act 1883, ss 3(1)(b), 9(1). *R v Bouch* [1982] 3 918, CA.

EXTRADITION

Committal—

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Evidence sufficient to justify committal—Evidence relied on not given under oath or affirmation in requesting state—Affirmation—Witness acknowledging that he was aware of need to tell truth when making statement—No penal sanction for perjury if witness made false statement—Whether an 'affirmation' has to be supported by the sanction of a penalty for perjury—Whether witness's statement amounting to affirmation and therefore admissible—Extradition Act 1870, s 14—Extradition Act 1873, s 4. *R v Governor of Pentonville Prison, ex p Passingham* [1982] 3 1012, QBD.

Extradition crime—

British citizen charged with manslaughter as a result of causing death by driving in California—Whether charge amounting to manslaughter under English law—Whether facts constituting extraditable offence or extradition crime—Extradition Act 1870, s 26—United States of America (Extradition) Order 1976, art 111(1). *Jennings v United States Government* [1982] 3 104, QBD & HL.

Evidence—

Committal. *See* **Committal**—Evidence, *ante*.

Surrender—

Persons accused or convicted of extradition crime—

Conviction not including conviction which under foreign law conviction for contumacy—Conviction and sentence in contumacy—Nature and effect of procedure under which fugitive convicted—Fugitive convicted and sentenced in his absence by Italian court for crime in Italy—Procedure in Italian court described as 'in contumacia'—No right of review or to fresh trial in event of subsequent surrender and appearance once trial had finished—Whether fugitive to be treated as a 'convicted' person or an 'accused' person—Extradition Act 1870, ss 10, 26. *Zeza v Government of Italy* [1982] 2 513, HL.

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FACTORY

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FAMILY DIVISION

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Scale of fees to be allowed on taxation. *Practice Direction* [1982] 1 128, FamD.

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FAMILY INCOME SUPPLEMENT

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Person engaged in remunerative full-time work—

Whether claimant absent from work because of illness 'engaged in remunerative full-time work' at date of claim—Whether claimant required to be actually working at date of claim—Family Income Supplement Act 1976, s 1(1)(a). *R v Supplementary Benefits Commission, ex p Lewis* [1982] 1 680, CA.

FARE

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Reduction of fares by London Transport Executive. *See* **London Transport Executive (Fares—Reduction)**.

FATAL ACCIDENT

Damages—

Apportionment—

Apportionment between widow and children—Effect on apportionment of claim under Law Reform (Miscellaneous Provisions) Act 1934 for deceased's loss of future earnings in lost years—Fatal Accidents Act 1976, s 3. *Benson v Biggs Wall & Co Ltd* [1982] 3 300, QBD.

Benefits excluded in assessing damages—

Insurance moneys—Claim under Law Reform (Miscellaneous Provisions) Act 1934 and under Fatal Accidents Act—Deduction of Law Reform Act damages from Fatal Accidents Act damages—Deceased dying intestate—Point at which insurance moneys to be excluded from dependant's damages under Law Reform Act—Fatal Accidents Act 1976, s 4(1). *Clay v Pooler* [1982] 3 570, QBD.

Deduction of damages from award under Fatal Accidents Acts—

Effect of intestacy on amount of damages under Law Reform (Miscellaneous Provisions) Act 1934—Effect of intestacy on amount deductible from dependant's award under Fatal Accidents Act and on total award under both Acts—Whether effect of intestacy making dependant directly interested in division of damages under Fatal Accidents Act between deceased's dependants—Law Reform (Miscellaneous Provisions) Act 1976, s 3. *Clay v Pooler* [1982] 3 570, QBD.

Division of damages between widow and children—

Effect on division of claim under Law Reform (Miscellaneous Provisions) Act 1934 for deceased's loss of future earnings in lost years where deceased died intestate—Fatal Accidents Act 1976, s 3(1). *Clay v Pooler* [1982] 3 570, QBD.

Loss of future earnings—

Survival of claim for benefit of estate—Measure of damages—Principles of assessment—Deductions to be made from estimated net future earnings in arriving at surplus earnings on which award to be based—Loss not limited to amount deceased likely to have saved—Amount awarded to be equivalent to compensation to deceased for loss of amenity of earning more than the cost of maintaining himself and of providing for himself a reasonably satisfying and enjoyable life—Costs of maintenance and providing satisfying life to be deducted from net earnings in arriving at surplus earnings—Whether money deceased would have spent on dependants to be deducted from his net earnings—Law Reform (Miscellaneous Provisions) Act 1934, s 1. *White v London Transport Executive* [1982] 1 410, QBD.

Survival of claim for benefit of estate—Measure of damages—Principles of assessment—Deductions to be made from estimated net future earnings in arriving at surplus earnings on which award to be based—Living expenses—Method of calculating—Same method to be used as under Fatal Accidents Act in calculating amount of dependency—Living expenses restricted to deceased's own living expenses and not including expenses of maintaining his family—Effect of intestacy on award—Effect of award on division of damages under Fatal Accidents Act between widow and children—Law Reform (Miscellaneous Provisions) Act 1934, s 1(1)—Fatal Accidents Act 1976, s 3. *Benson v Biggs Wall & Co Ltd* [1982] 3 300, QBD.

Survival of claim for benefit of estate—Measure of damages—Principles of assessment—Deductions to be made from estimated net future earnings in arriving at surplus earnings on which award to be based—Living expenses—Method of calculating—Same method to be used as used under Fatal Accidents Acts in calculating amount of dependency—Living expenses therefore restricted to deceased's own living expenses—Award not based on proportion of earnings deceased would have saved after deducting whole of his expenditure on himself and his family—Law Reform (Miscellaneous Provisions) Act 1934, s 1(1). *Harris v Empress Motors Ltd* [1982] 3 306, QBD.

Survival of claim for benefit of estate—Measure of damages—Principles of assessment—Deductions to be made from estimated net future earnings in arriving at surplus earnings on which award to be based—Living expenses—Method of calculation—Same method to be used as under Fatal Accidents Act—Living expenses restricted to deceased's own living expenses. *clay v Pooler* [1982] 3 570, QBD.

FETUS

Negligence—

Duty of care—

Medical practitioner. *See* **Medical practitioner (Negligence—Duty owed to fetus)**.

FINANCIAL PROVISION

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FOREIGN LAW

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FOREIGN NATIONAL

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United Kingdom citizenship. *See* **Citizenship** (United Kingdom citizenship).

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Certiorari to quash order obtained as a result of perjured evidence. *See* **Certiorari** (Fraud—Perjury).

FRAUDULENT PREFERENCE

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FRUSTRATION

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Contract of service. *See* **Master and servant** (Contract of service—Frustration).

Generally. *See* **Contract** (Frustration).

FUGITIVE OFFENDER

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GAMING

Totalisators on dog racecourses—

Provision of space for bookmakers—

Obligation of occupier of track—Extent of obligation—Whether occupier entitled to decide what, and how many, bookmakers should be admitted—Whether occupier entitled to take into account need for totalisator to make a profit—Betting, Gaming and Lotteries Act 1963, s 16(2)(a). **Poole Stadium Ltd v Squires** [1982] 1 404, QBD.

GEOGRAPHICAL NAME

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GIFT

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Gift in settlement. *See* **Capital gains tax** (Settlement—Settled property—Gift in settlement).

GRANT

Student—

University study. *See* **Education** (University—Grant for study).

GREATER LONDON COUNCIL

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Excessive exercise of statutory powers. *See* **Public authority** (Statutory powers—Excessive exercise of statutory powers—Greater London Council).

GUARANTEE

Company—

Power to give guarantee—

Construction of objects clause. *See* **Company** (Objects clause—Construction—Borrowing power declared as an object—Power to lend money and give guarantees).

GUARDIAN

Adoption of child—

Dispensing with consent of guardian. *See* **Adoption** (Dispensing with consent of parent or guardian).

GUARDIAN AD LITEM

Wardship proceedings—

Appointment of Official Solicitor as guardian ad litem. *See* **Ward of court** (Practice—Appointment of Official Solicitor as guardian ad litem).

HANDLING STOLEN GOODS

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HEALTH

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Duty of employer—

Statutory duty. *See* **Health and Safety at work** (Employer's duties).

HEALTH AND SAFETY AT WORK

Employer's duties—

Duty to employees—

Duty to other person's employees—Duty to provide safe system of work—Duty to provide information and instruction to ensure health and safety at work—Whether employer under duty to provide information and instruction to other person's employees in order to provide safe system of work for his own employees—**Health and Safety at Work etc Act 1974**, ss 2(2)(a), (c), 3(1), (3). **R v Swan Hunter Shipbuilders Ltd** [1982] 1 264, CA.

HEARSAY

Evidence—

Criminal proceedings. *See* Criminal evidence (Hearsay).

HIGH COURT

Jurisdiction—

Judicial review—

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Practice—

Generally. *See* Practice.

HIRE

Ship—

Time charter—

Payment of hire. *See* Shipping (Time charterparty—Payment of hire).

Withdrawal of vessel for non-payment of hire. *See* Shipping (Time charterparty—Withdrawal of vessel for non-payment of hire).

HIRE-PURCHASE

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Landlord and tenant—

Equipment in possession of tenant as hirer—Distress by landlord on tenant's goods—Owner of goods notifying tenant on same day as distress warrant issued that it was assuming immediate possession of equipment—Statutory right of owner to obtain release of distrained equipment except where tenant in possession with owner's consent—Whether withdrawal of consent effective without agreement being terminated—Distress Ordinance 1951 (Malaysia), ss 10, 12. *Perdana Properties Bhd v United Orient Leasing Co Sdn Bhd* [1982] 1 193, PC.

HOMELESS PERSON

Housing. *See* Housing (Homeless person).

HOMICIDE

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HORSE

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HOTEL

Business—

Plant—

Capital allowances—Income tax. *See* Income tax (Capital allowances—Plant—Apparatus used by taxpayer for purpose of business—Hotels).

HOUSE

Long leasehold—

Acquisition of freehold or extended lease. *See* Landlord and tenant (Leasehold enfranchisement).

Sale—

Local authority house. *See* Housing (Local authority houses—Sale of house).

HOUSE OF LORDS

Procedure—

Cases—

Preparation—Form of cases and purpose. *MV Yorke Motors (a firm) v Edwards* [1982] 1 1024, HL.

HOUSING

Homeless person—

Duty of housing authority to provide accommodation—

Remedy for breach of duty—Whether applicant can proceed by way of ordinary action—Whether applicant restricted to applying for judicial review—RSC Ord 53. *Cocks v Thanet DC* [1982] 3 1135, HL.

Duty of local authority to provide accommodation—

Duty to provide accommodation to person they have reason to believe may be homeless and have a priority need—Priority need by reason of being vulnerable 'as result of old age, mental illness ... or other special reason'—Applicant 59 years and alcoholic—Applicant suffering brain damage and unable to find accommodation—Applicant applying for accommodation on ground of priority need—Whether applicant vulnerable—Whether vulnerability as a result of brain damage entitling applicant to priority—Whether vulnerability as result of alcoholism alone entitling applicant to priority—Housing (Homeless Persons) Act 1977, s 2(1)(c). *R v Waveney District Council, ex p Bowers* [1982] 3 727, CA.

Person becoming homeless intentionally—

Act or omission causing applicant to cease occupying accommodation available for him—National of EEC country giving up accommodation voluntarily in France to settle in England—Applicant taking short-term holiday letting—Applicant required to vacate holiday letting—Whether local authority entitled to consider circumstances of accommodation other than that last occupied by applicant—Whether applicant's voluntary homelessness in France relevant—Whether applicant became intentionally homeless—Housing (Homeless Persons) Act 1977, s 17. *Lambert v Ealing London Borough Council* [1982] 2 394, CA.

Person threatened with homelessness intentionally—Intentionally—Deliberate act—Possession order made against tenant for persistent failure to pay rent—Tenant deliberately failing to pay rent—Tenant not realising eviction would be likely result of failure to pay rent—Whether tenant homeless intentionally or threatened with homelessness intentionally because of his deliberate act even though he did not realise the likely result of his act—Whether tenant homeless intentionally or threatened with homelessness intentionally only if he deliberately did something to get himself made homeless—Housing (Homeless Persons) Act 1977, s 17(1), (2). *Robinson v Torbay Borough Council* [1982] 1 726, QBD.

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HOUSING (cont)

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Domestic violence—

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Summary proceedings. *See Summary proceedings*—Financial provision, *post*.

Injunction—

Exclusion of party from matrimonial home. *See Injunction* (Exclusion of party from matrimonial home).

Exclusion of spouse from matrimonial home. *See Injunction* (Exclusion of party from matrimonial home).

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Divorce—

Property adjustment order. *See Divorce* (Property—Adjustment order).

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Exclusion of spouse from home. *See Injunction* (Exclusion of party from matrimonial home).

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Registration—Right of occupation—Spouse not in occupation—Husband incurring losses on uncompleted purchase of house intended as matrimonial home—Wife owning her own home—Wife agreeing to provide half purchase price of new house—Marriage breaking down and wife repudiating agreement—Wife contracting to sell her home—Husband registering Class F land charge against wife's home to freeze proceeds of sale—Husband wishing to protect his position regarding wife's liability for half share of losses made on uncompleted purchase of new house—Husband not wishing to occupy wife's home—Whether husband entitled to register Class F land charge against wife's home for purpose of freezing proceeds of sale—Matrimonial Homes Act 1967, s 2(1)(g). *Barnett v Hassett* [1982] 1 80, FamD.

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Polygamous marriage—

Generally. *See Marriage* (Polygamous).

Property—

Division of matrimonial property—

New Zealand. *See New Zealand* (Husband and wife—Division of matrimonial property).

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Lump sum order—Wife reasonably incurring liabilities in maintaining herself and children of marriage—Husband unemployed and having no capital resources but likely to obtain employment within six weeks—Magistrates making lump sum order against husband for payment of £500 for wife and £250 for children—Sums made payable by instalments and payment postponed for six weeks to enable husband to find employment—Husband failing to find employment and failing to comply with order—Whether magistrates ought to make lump sum order if respondent has no capital resources—Whether order exceeding prescribed limit of £500 for lump sum—Whether magistrates required to inquire further into husband's resources before enforcing order—Domestic Proceedings and Magistrates' Courts Act 1978, s 2(2), (3). *Burridge v Burridge* [1982] 3 80, FamD.

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IMMIGRATION

Illegal entry and similar offences—

Time limit for prosecutions—

Continuing offences—Remaining in United Kingdom beyond time limit for leave—Immigrant applying for further leave to remain—Leave to remain expiring while application being considered—Immigrant refused further leave to remain and then making further application to Home Office—Application subsequently refused—Whether immigrant 'knowingly' committing offence when leave expiring or when further application refused—Immigration Act 1971, s 24(1)(b)(i). *Grant v Borg* [1982] 2 257, HL.

Leave to enter—

Non-patrial—

Right of entry—Duty to disclose facts—Vitiation of leave to enter by non-disclosure—Immigrant seeking entry only required to disclose material facts decisively affecting grant of leave to enter—Failure to disclose immaterial facts not vitiating leave to enter. *R v Secretary of State for the Home Dept, ex p Jayakody* [1982] 1 461, CA.

IMMIGRATION (cont)

Leave to enter (cont)—

Non-patrial (cont)—

Right of entry—Duty to disclose facts—Vitiation of leave to enter by non-disclosure—Immigrant seeking entry required to disclose material facts decisively affecting grant of leave to enter—Failure to disclose material facts vitiating leave to enter. *R v Secretary of State for the Home Department, ex p Khawaja* [1982] 2 523, CA.

Student—Requirements for entry—Applicant producing evidence of genuine intention to study in United Kingdom—Applicant unable to satisfy immigration officer of intention to leave United Kingdom on completion of course—Immigration officer refusing leave to enter—Whether necessity to satisfy immigration officer of intention to leave country on completion of course a 'requirement' for entry—Whether applicant not satisfying 'requirements' for entry—Whether immigration officer having discretion to admit student for short period despite failure to show intention to leave country on completion of course—Statement of Immigration Rules for Control on Entry: Commonwealth Citizens (HC Paper (1972-73) no 79), paras 19, 21. *Alexander v Immigration Appeal Tribunal* [1982] 2 766, HL.

Refusal of leave—

Removal of immigrant—Direction to airline to remove immigrant—Validity—Locus standi of immigrant to challenge validity of direction—Direction to remove immigrant when his application to enter finally resolved—Whether direction valid if it merely indicates immigrant might be required to be removed—Whether direction must indicate immediate requirement to remove immigrant—Immigration Act 1971, Sch 2, para 8(1)(b). *R v Immigration Officer, ex parte Shah* [1982] 2 264, QBD.

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Factory—Building used for subjecting goods or materials to a process—Plant hire operator's depots used for repair and maintenance of equipment hired out—Whether building a 'factory or other similar premises' or used for subjecting goods or materials to a 'process'—Capital Allowances Act 1968, s 7(1)(a)(e). *Vibroplant Ltd v Holland (Inspector of Taxes)* [1982] 1 792, CA.

Plant—

Apparatus used by taxpayer for purpose of business—Hotels—Whether electric light fittings, decor and murals for hotels and licensed premises plant—Finance Act 1971, s 41(1). *Inland Revenue Comrs v Scottish and Newcastle Breweries Ltd* [1982] 2 230, HL.

Apparatus used by taxpayer for purpose of business—Building society—Decorative screens—Society installing decorative screens in windows of its branch offices with a view to attracting custom from passers-by—Whether screens 'plant'—Finance Act 1971, s 4(1). *Leeds Permanent Building Society v Procter (Inspector of Taxes)* [1982] 3 925, ChD.

Single or separate items of plant—Electrical installation—Installation consisting of trunking, transformers, switchgear, switchboard and lighting system—Whether installation to be considered as single entity or separate items—Finance Act 1971, s 41. *Cole Bros Ltd v Phillips (Inspector of Taxes)* [1982] 2 247, HL.

Case stated—

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Practice. *Cole Bros Ltd v Phillips (Inspector of Taxes)* [1982] 2 247, HL.

Close company—

Apportionment of income—

Relevant income—Maintenance and development of business—Business—Taxpayer company carrying on business as manufacturers of chalkboards—Decline in demand for chalkboards—Taxpayer company planning to acquire motor-dealership to improve its trading position—Acquisition of dealership within taxpayer company's objects—Whether acquisition of dealership a 'development' of taxpayer company's business—Whether planned expenditure on acquisition of dealership a 'requirement' of taxpayer company's business—Finance Act 1972, Sch 16, para 8(2). *Wilson & Garden Ltd v Inland Revenue Comrs* [1982] 3 219, HL.

Company—

Group relief—

Entitlement—Arrangements for transfer of company to another group—Arrangement—Scheme for taxpayer to offset its profits against capital allowances of another company—Scheme involving wholly-owned subsidiaries—Taxpayer and other company acquiring equal shareholding in former subsidiary of other company—Former subsidiary not under control of taxpayer—Former subsidiary entitled to claim capital allowance—Taxpayer purchasing claim to capital allowance at discount—Whether taxpayer entitled to group relief by setting its profits against claim to capital allowances—Finance Act 1973, s 20(1)(b)(ii). *Pilkington Bros Ltd v Inland Revenue Comrs* [1982] 1 715, HL.

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Generally. *See Domicile.*

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Benefits derived by directors and higher paid employees from employment—

Scholarship awarded to employee's child by employer—Whether award emolument from parent's employment—Income and Corporation Taxes Act 1970, s 375(1)—Finance Act 1976, ss 61(1), 72(3). *Wicks v Firth (Inspector of Taxes)*, *Johnson v Firth (Inspector of Taxes)* [1982] 2 9, CA.

INCOME TAX (cont)

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Discretionary trust—

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Rights of worker as against employer—

Right to time off for carrying out trade union activities—Attendance at union meeting—Meeting to discuss industrial relations strategy—Discussion not wholly confined to topics for which union recognised by employer—Whether officials entitled to time off with pay to attend meeting—Employment Protection (Consolidation) Act 1978, s 27(1)(a). *Beal v Beecham Group Ltd* [1982] 3 280, CA.

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INFANT

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Jurisdiction. *See Magistrates* (Jurisdiction—Trial of information).

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Exclusion of party from matrimonial home. *See Exclusion of party from matrimonial home*—County court—Jurisdiction, *post*.

Generally. *See County court* (Jurisdiction—Injunction).

Defamation cases. *See Libel and slander* (Injunction).

Exclusion of party from matrimonial home—

County court—

Jurisdiction—Application for injunction made after decree absolute but during pendency of proceedings for ancillary relief—Parties continuing to live in matrimonial home after decree absolute but wife living in extension to home without any amenities—Wife applying for injunction to exclude husband from home—Whether court having jurisdiction under statute or at common law—Whether if jurisdiction proper exercise of discretion to grant injunction—Domestic Violence and Matrimonial Proceedings Act 1976, s 1(1)(c). *O'Malley v O'Malley* [1982] 2 112, CA.

Wife's application to exclude husband—

Factors to be considered—Wife leaving matrimonial home with young child—Wife and child living in overcrowded conditions—Wife applying for order to exclude husband from matrimonial home so that she and child could return—Wife genuinely feeling that she could never live with husband again—Whether sufficient grounds for court to exclude husband from matrimonial home. *Myers v Myers* [1982] 1 776, CA.

Factors to be considered—Wife leaving matrimonial home with young children—Wife and children living in overcrowded conditions—Wife applying for order to exclude husband from matrimonial home so that she and children could return—Wife refusing to return while husband in occupation—Whether there were sufficient grounds for court to exclude him. *Samson v Samson* [1982] 1 780, CA.

INJUNCTION (cont)

Husband and wife—

Domestic violence—

Attachment of power of arrest to injunction—Husband not violent for nine months but continuing to harass wife—Wife entitled to injunction in county court restraining husband from assaulting, molesting or interfering with her—Whether power of arrest should be attached to injunction—Domestic Violence and Matrimonial Proceedings Act 1976, s 2(1). *Horner v Horner* [1982] 2 495, CA.

Attachment of power of arrest to injunction—Committal to custody for breach of protection order—Whether committal to custody the same as imprisonment—Whether magistrates having power to order consecutive periods of custody for separate breaches of protection order—Domestic Proceedings and Magistrates' Courts Act 1978, ss 16(5), 18—Magistrates' Courts Act 1980, ss 63(3), 133(1). *Head v Head* [1982] 3 14, FamD.

Matrimonial home—

Exclusion of party from matrimonial home. *See* Exclusion of party from matrimonial home, *ante*.

Molestation—

Meaning—Harassment by husband—Jurisdiction of county court—Wife obtaining order in magistrates' court restraining husband from using violence—Husband refraining from violence but continuing to harass wife—Whether magistrates' court order extending to husband's harassment—Whether wife entitled to obtain county court order restraining husband from molesting her—Domestic Violence and Matrimonial Proceedings Act 1976, s 1(1)(a)—Domestic Proceedings and Magistrates' Courts Act 1978, s 16. *Horner v Horner* [1982] 2 495, CA.

Interlocutory—

Danger that defendant may transfer assets out of jurisdiction—

Discovery of assets and delivery up of particular assets in aid of Mareva injunction—Defendant involved in large scale infringement of plaintiffs' copyright—Inference that defendant spent money from his unlawful activities on goods easily disposed of—Motor vehicles—Delivery up of motor vehicles in defendant's possession pending trial—Guidelines for court to follow in ordering delivery up of chattels pending trial. *CBS United Kingdom Ltd v Lambert* [1982] 3 237, CA.

Injunction restraining removal of assets out of or disposal within jurisdiction—Protection of interests of third parties—Shipowner—Cargo belonging to defendant loaded on board shipowner's vessel pursuant to voyage charter between shipowner and defendant—Injunction preventing ship from sailing and therefore interfering with shipowner's trading activities and with crew's leave arrangements—Shipowner applying for discharge of injunction—Plaintiff offering shipowners indemnity against loss or damage resulting from grant of injunction—Whether shipowner entitled to have injunction discharged—Whether abuse of Mareva injunction to grant injunction if it interferes with innocent third party's general or trading rights—Whether offer of indemnity to shipowner entitling plaintiff to continuance of injunction. *Galaxia Maritime SA v Mineralimportexport, The Eleftherios* [1982] 1 796

Protection of interests of innocent third parties—Banks and other third parties holding bank accounts and other assets of defendant—Obligations of banks and other third parties—Guidelines on the issue of Mareva injunctions affecting bank accounts and other assets. *Z Ltd v A* [1982] 1 556, CA.

Defamation cases. *See* Libel and slander (Injunction—Interlocutory).

Discovery—

Discovery before statement of claim—Jurisdiction of court to order discovery in aid of interlocutory relief—Whether discovery relating to any 'matters in question in the action' if in aid of interlocutory relief—Whether discovery necessary 'for disposing fairly of the cause or matter'—Whether discovery ought to be ordered in aid of interlocutory relief before pleadings—RSC Ord 24, rr 1, 7, 8. *RHM Foods Ltd v Bovril Ltd* [1982] 1 673, CA.

Mandatory injunction—

Execution of contractual obligation. *See* Interlocutory—Specific performance—Mandatory injunction compelling execution of contractual obligation, *post*.

Specific performance—

Mandatory injunction compelling execution of contractual obligation—Contract for sale of vessel—Letter of credit in payment of purchase price—Buyers refusing notice of readiness—Buyers seeking stay of proceedings pending arbitration—Judge granting stay of proceedings but ordering buyers to sign notice of readiness by certain date failing which to be signed by master—Order that letter of credit held by third party to be released—Jurisdiction of court to make order—Jurisdiction of court to order specific performance at interlocutory stage—Whether order enforceable against third party—Supreme Court of Judicature (Consolidation) Act 1925, ss 45(1), 47. *Astro Exito Navegacion SA v Southland Enterprise Co Ltd* (Chase Manhattan Bank NA intervening), *The Messiniaki Tolmi* [1982] 3 335, CA.

Mareva injunction. *See* Interlocutory—Danger that defendant may transfer assets out of jurisdiction, *ante*.

Molestation—

Domestic violence—

County court—Jurisdiction—Wife obtaining order in magistrates' court restraining husband from using violence—Jurisdiction of county court to restrain husband from molesting wife—Domestic Violence and Matrimonial Proceedings Act 1976, s 1(1)(a)—Domestic Proceedings and Magistrates' Courts Act 1978, s 16. *Horner v Horner* [1982] 2 495, CA.

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Liability insurance—

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Jurisdiction to include interest in award of damages—

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Fatal accident—Pleading. *See* Practice (Interest—Pleading).

Pain, suffering and loss of amenities—Rate of interest—Interest to be awarded at rate of 2 per cent from date of writ to date of trial—Interest to be awarded for lesser period if plaintiff unjustifiably delays trial. *Birkett v Haynes* [1982] 2 710, CA.

Debt—

Action for recovery of debt or damages—

Meaning of 'debt or damages'—Law Reform (Miscellaneous Provisions) Act 1934, s 3(1). *BP Exploration Co (Libya) Ltd v Hunt (No 2)* [1982] 1 925, QBD, CA & HL.

Pleading. *See* Practice (Interest—Pleading).

INTERLOCUTORY INJUNCTION

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INTERNATIONAL CARRIAGE BY ROAD

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INTERNATIONAL CARRIAGE OF GOODS BY ROAD

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Test to be applied—

Leave granted to enter final judgment—Judge not certifying that he required further argument—No leave obtained from Federal Court of Malaysia or judge of High Court to bring appeal—Whether appeal competently brought—Courts of Judicature Act 1964 (Malaysia), s 68(2). *Haron bin Mohd Zaid v Central Securities (Holdings) Bhd* [1982] 2 481, PC.

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Declaration—

Circumvention of procedure for application for judicial review—

Landowner applying to Chancery Division for declaration entitling him to have land removed from commons register—Whether landowner required to apply to Queen's Bench Division for judicial review. *Re Tillmire Common, Healdington* [1982] 2 615, ChD.

Circumvention of procedure for judicial review—

Action for declaration circumventing procedure for judicial review—Plaintiffs found guilty of disciplinary offences and penalties imposed by board of prison visitors—Plaintiffs commencing action by writ and originating summons for declaration that board's findings and awards null and void by reason of breach of natural justice—Application by board to strike out actions as abuse of court's process—Whether judicial review the only remedy to impugn adjudications by prison visitors—RSC Ord 53. *O'Reilly v Mackman* [1982] 3 1124, HL.

Housing authority's decision in respect of homeless person—

Decision adverse to applicant—

Whether applicant's only remedy application for judicial review. *See* **Housing** (Homeless person—Duty of housing authority to provide accommodation—Remedy for breach of duty).

Leave to apply for judicial review—

Refusal—

Appeal—Grant of leave by Court of Appeal—Hearing of substantive application—Practice—Substantive application normally to be made to Divisional Court. **Practice Direction** [1982] 3 800, CA.

Practice—

Crown office list—

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See Commons

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Pending land action—Meaning—Action relating to land or any interest in or charge on land—Action in respect of expenditure incurred by plaintiff in hope of obtaining contract relating to land and in furtherance of that contract when made—Plaintiff claiming payment of fair sum in respect of such expenditure and an order that until payment such sum should be a charge on the land—Whether 'an action relating to an interest in the land'—Land Charges Act 1972, s 17(1). *Haslemere Estates Ltd v Baker* [1982] 3 525, ChD.

Registration—

Matrimonial home. *See* Husband and wife (Matrimonial home—Land charge—Registration).

Pending action. *See* Pending action—Registration, *ante*.

Vacation of entry in register—

Contract registered as estate contract—

Conditional contract relating to land—Condition to be satisfied not by parties but by some extraneous person—Motion to vacate entry. *Haslemere Estates Ltd v Baker* [1982] 3 525, ChD.

LANDLORD AND TENANT

Agricultural holding—

Generally. *See* Agricultural holding.

Assignment of lease—

Consent of landlord not to be unreasonably withheld—

Consent withheld in interests of good estate management—Whether withholding of consent reasonable—Landlord and Tenant Act 1927, s 19(1). *Bromley Park Garden Estates Ltd v Moss* [1982] 2 890, CA.

Breach of covenant to repair—

Leave to institute proceedings—

Conditions to be satisfied before leave may be given—Service by lessor of notice under s 146 of the Law of Property Act 1925, Notice served by lessor after he had caused repairs to be executed—Whether notice valid—Whether leave could be given to institute proceedings—Law of Property Act 1925, s 146(1)—Leasehold Property (Repairs) Act 1938, s 1. *SEDAC Investments Ltd v Tanner* [1982] 3 646, ChD.

Business premises—

Application for new tenancy—

County court procedure—Failure to serve documents relating to application within prescribed time limit—Jurisdiction to enlarge time for service—Exercise of discretion to enlarge time where jurisdiction—CCR 1981 Ord 7, r 20, Ord 13, r 4, Ord 43, r 6(3). *Robert Baxendale Ltd v Davstone (Holdings) Ltd, Carbone v John Collier Menswear Ltd* [1982] 3 496, CA.

LANDLORD AND TENANT (cont)

Business premises (cont)—

Compensation for disturbance—

Amount of compensation—Amount altered by amendment of statutory provision—Landlord serving notice to terminate tenancy before amendment coming into force—Landlord entitled to possession after amendment coming into force—Amount of compensation payable by landlord to tenant on quitting premises—Whether compensation payable according to statutory scale in force at date of landlord's notice or at date tenant quitting holding—Landlord and Tenant Act 1954, s 37(2)—Local Government, Planning and Land Act 1980, Sch 3, para 4(1)—Landlord and Tenant Act 1954 (Appropriate Multiplier) Regulations 1981, regs 1, 2. *International Military Services Ltd v Capital and Counties plc* [1982] 2 20, ChD.

Amount of compensation—Amounts altered by amendment of statutory provision—Landlord serving notice to terminate tenancy before amendment coming into force—Landlord entitled to possession after amendment coming into force—Amount of compensation payable by landlord to tenant on quitting premises—Whether compensation payable according to statutory scale in force at date of landlord's notice or at date tenant quitting holding—Landlord and Tenant Act 1954, s 37(2)—Local Government, Planning and Land Act 1980, Sch 33, para 4(1)—Landlord and Tenant Act 1954 (Appropriate Multiplier) Regulations 1981. *Cardshops Ltd v John Lewis Properties Ltd* [1982] 3 746, CA.

Rent. *See* Rent—Business premises, *post*.

Terms of new tenancy—

Inclusion of service charge over and above reserved rent—Landlord offering tenant new three-year lease containing new provisions as to service charge—Landlord claiming proportion of amount expended by him on services and repairs to building as service charge from tenant—Reserved rent to be consequentially reduced—Landlord thus obtaining clear lease free of burden of services and repairs—Whether service charge merely part of rent payable or variation of terms of tenancy—Whether transfer of risk and burden of services and repairs from landlord to tenant fair and reasonable—Landlord and Tenant Act 1954, ss 34, 35. *O'May v City of London Real Property Co Ltd* [1982] 1 660, HL.

Compensation—

Compensation for disturbance—

Business premises. *See* Business premises—Compensation for disturbance, *ante*.

Costs—

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County court—

Procedure—

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Lease—

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Fixtures—

Fixtures annexed by tenant—Tenant's right to remove fixtures on surrender of lease—Surrender by operation of law—Lease expiring by effluxion of time and being replaced by new lease—Rent under new lease to be open market rental value—Whether tenant losing right to remove fixtures on surrender of lease—Whether rent to be assessed without regard to tenant's fixtures. *New Zealand Government Property Corp v H M & S Ltd* [1982] 1 624, CA.

Option to purchase. *See* Option (Option to purchase—Tenant's option conferred by lease).

Surrender—

Surrender by operation of law—Right of tenant to remove fixtures. *See* Lease—Fixtures—Fixtures annexed by tenant—Surrender of lease, *ante*.

Leasehold enfranchisement—

House—

House reasonably so called—Purpose-built shop with flat above in parade of similar premises—Shop occupying equal or greater area of premises than flat depending on whether covered yard and stable included as part of premises—Whether building 'reasonably... called' a house—Leasehold Reform Act 1967, s 2(1). *Tandon v Trustees of Spurgeon's Homes* [1982] 1 1086, HL.

New tenancy—

Business premises—

Generally. *See* Business premises, *ante*.

Rent. *See* Rent—Business premises—New tenancy, *post*.

Option—

Purchase—

Tenant's option conferred by lease. *See* Option (Option to purchase—Tenant's option conferred by lease).

Possession—

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Rent—

Business premises—

New tenancy—Determination of rent—Evidence of trading records—Admissibility—Landlord and Tenant Act 1954, s 34(1). *W J Banton Ltd v Long Acre Securities Ltd* [1982] 1 466, CA.

Distress—

Distress on goods comprised in hire-purchase agreement. *See* Hire-purchase (Distress—Landlord and tenant).

Interim payment order—

Jurisdiction of county court to make order. *See* County court (Jurisdiction—Interim payment).

Restriction. *See* Rent restriction.

LANDLORD AND TENANT (cont)

Rent (cont)

Review

Rent payable on review to be rent agreed between parties or fixed by arbitration in default of agreement—Rent fixed by arbitration after tenant surrendering lease—Whether tenant liable to pay new rent for period during which he remained in possession after review date. *Tomlinster Properties Ltd v Green* [1982] 1 420, ChD.

Repair

Breach of covenant

Generally. *See* Breach of covenant to repair, *ante*.

Service charge

Business premises

Terms of new tenancy. *See* Business premises—Terms of new tenancy—Inclusion of service charge over and above rent reserved, *ante*.

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Case stated

Decision

Final decision on point of law—Application for discovery at commencement of hearing of appeal—Dismissal of application—Application renewable later in proceedings if circumstances requiring it—Tribunal refusing to state case on determination of application for discovery—Whether determination a final 'decision' on a point of law—*Lands Tribunal Act 1949*, ss 1(3)(e), 3(4). *R v Lands Tribunal, ex parte City of London Corpn* [1982] 1 892, CA.

LAW SOCIETY

Insurance

Professional indemnity insurance

Group scheme—Commission. *See* Trust and trustee (Profit from trust—Account of profits—Commission—Professional indemnity insurance).

Group scheme—Validity. *See* Insurance (Liability insurance—Professional indemnity insurance—Solicitor—Law Society's group scheme).

LEASE

Agricultural holding. *See* Agricultural holding.

Generally. *See* Landlord and tenant (Lease).

Long lease

Enfranchisement. *See* Landlord and tenant (Leasehold enfranchisement).

Option

Purchase

Tenant's option conferred by lease. *See* Option (Option to purchase—Tenant's option conferred by lease).

Rent

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LEASEHOLD ENFRANCHISEMENT

See Landlord and tenant (Leasehold enfranchisement).

LEAVE

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LEGAL AID

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Unassisted person's costs out of legal aid fund. *See* Unassisted person's costs out of legal aid fund, *post*.

Counsel

Duty to legally-aided client. *See* Counsel (Duty—Legally aided client).

Criminal cases

Evidence

Accused cross-examined on contents of his legal aid application for purpose of discrediting him—Whether witness properly examined on his legal aid application entitled to warning against self incrimination—Whether privilege from disclosure afforded to information furnished for civil legal aid extending to information furnished for criminal legal aid—*Legal Aid Act 1974*, ss 22(1), 23(1). *R v Stubbs* [1982] 1 424, CA.

Solicitor

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Taxation of costs

Counsel's fee

Leading counsel—Duty of solicitor acting for legally aided client—Duty not to brief leading counsel without client's authority—Duty to explain to client effect of cost of briefing leading counsel—When leading counsel should not be briefed for legally aided client—Whether court entitled under inherent jurisdiction to inquire into propriety of briefing leading counsel—*Solicitors Act 1974*, s 50(2)—*Legal Aid (General) Regulations 1950*, regs 60(1), 61—*Re Solicitors' Taxation of Costs* [1982] 2 683, ChD.

Unassisted person's costs out of legal aid fund—

Appeal against refusal of order for payment

Judge finding that unassisted party would not suffer severe financial hardship if order not made—Whether appeal lying from judge's decision—*Legal Aid Act 1974*, s 13(5) *Kelly v London Transport Executive* [1982] 2 842, CA.

LEGAL AID (cont)

Unassisted person's costs out of legal aid fund (cont)—

Costs incurred by unassisted party—

Provisional order for payment of unassisted party's costs out of legal aid fund—Such orders not to be made as of course whenever unassisted party is successful—Legal Aid Act 1974, s 13. *Din v Wandsworth London Borough Council* [No 2] [1982] 1 1022, HL.

Just and equitable—

Action for personal injuries—Assisted plaintiff's claim without foundation—Plaintiff refusing £750 paid into court and offer of £4,000 before trial—Plaintiff awarded damages of £75—Defendant put to trouble and expense to expose plaintiff's groundless claim—Whether 'just and equitable' to order payment of defendant's costs out of legal aid fund—Legal Aid Act 1974, s 13(2). *Kelly v London Transport Executive* [1982] 2 842, CA.

Proceedings finally decided in favour of unassisted party—

Sufficient if unassisted party substantially successful—Legally-aided plaintiff given judgment for considerably less than amount paid into court by unassisted defendant—Whether proceedings determined in favour of plaintiff because judgment given for him—Whether proceedings determined in favour of defendant because award less than amount paid into court—Legal Aid Act 1974, s 13(1). *Kelly v London Transport Executive* [1982] 2 842, CA.

Severe financial hardship—

Corporation—Large public transport undertaking—Corporation having £100,000 overdraft on its operations after receiving local government grant of £179m—Whether corporation would suffer severe financial hardship if its costs of £8,000 in successfully defending action not paid out of legal aid fund—Legal Aid Act 1974, s 13(3)(b). *Kelly v London Transport Executive* [1982] 2 842, CA.

LIABILITY INSURANCE

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LIBEL AND SLANDER

Criminal libel. *See Criminal law* (Libel).

Injunction—

Interlocutory—

Justification—Defendant pleading justification—Whether injunction restraining further publication should be granted. *Harskas v Baltic Mercantile and Shipping Exchange Ltd* [1982] 2 701, CA.

Justification—

Interlocutory injunction. *See Injunction*—Interlocutory—Justification, *ante*.

LIEN

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Shares. *See Company* (Shares—Lien).

Shares—

Company. *See Company* (Shares—Lien).

LIMITATION OF ACTION

Accrual of cause of action—

Negligence—

Solicitor—Economic loss suffered in consequence of solicitor's negligent advice—Plaintiff executing mortgage as guarantor following solicitor's negligent advice—Date from which limitation period running—Whether cause of action against solicitor complete when plaintiff incurred contingent liability on executing mortgage—Whether cause of action not complete until mortgagee demanding payment under mortgage. *Forster v Outred & Co* [1982] 2 753, CA.

Acknowledgment—

Debt—

Company—Acknowledgment contained in company's statement of affairs and summaries thereof made in company's receivership and subsequent liquidation—Whether statement of affairs and summaries thereof capable of constituting acknowledgment—Whether acknowledgment in documents only an acknowledgment of indebtedness as at date to which statement of affairs relates and not as at later date when documents signed—Whether creditors' claims statute-barred in liquidation—Limitation Act 1939, ss 23(4), 24. *Re Overmark Smith Warden Ltd* [1982] 3 513, ChD.

Adverse possession. *See Land*—Adverse possession, *post*.

Extension of time limit—

Amendment of statute—

Whether amendment retrospective. *See Statute*—Amendment—Construction—Extension of limitation period, *post*.

Land—

Adverse possession—

Purchaser taking possession before completion of contract of sale—Conveyance never completed—Purchaser in possession for 14 years—Vendor subsequently conveying property to third party—Third party dispossessing purchaser—Purchaser claiming title to property by adverse possession for period exceeding limitation period—Whether purchaser merely a licensor of vendor—Whether purchaser having 'adverse possession' for period of his occupancy—Whether third party entitled to possession—Limitation Act 1939, ss 4(3), 10. *Hyde v Pearce* [1982] 1 1029, CA.

Statute—

Amendment—

Construction—Extension of limitation period—Cause of action time-barred before amendment—Cause of action within limitation period if amendment retrospective—Whether amendment retrospective—Whether classification of amending statute as procedural or substantive relevant to retrospectivity—Whether cause of action revived by amending statute—Public Authorities Protection Ordinance 1948 (Malaysia), s 2(a)—Public Authorities Protection (Amendment) Act 1974 (Malaysia). *Yew Bon Tew v Kenderaan Bas Mara* [1982] 3 833, PC.

When time begins to run—

Action arising from contract for carriage of goods. *See Carriers* (Contract—Carriage of goods—Action arising out of carriage—Limitation period).

LIMITATION OF ACTION (cont)

When time begins to run (cont)—

Actions in tort—

Accrual of cause of action—Negligence—Damage—Lapse of time between negligent act and occurrence of damage—Action against local authority for breach of duty to take reasonable care in considering and approving plans of house—Plans showing house to be constructed on raft foundations—Raft and foundations inadequate—Cracks appearing in brick work of house more than six years before action brought—Writ issued within six years of discovery of cause of cracks—Whether limitation period accruing from date when damage first appeared or when cause of cracks discovered—Limitation Act 1939, s 2(1)(a). *Dennis v Charnwood Borough Council* [1982] 3 486, CA.

LITERARY EXECUTOR

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LOCAL AUTHORITY

Action—

Action against local authority—

Action by ratepayer against local authority—Ratepayer's locus standi—Ratepayer bringing action in own name against local authority—Whether Attorney General's consent to relator proceedings necessary. *Barra v Bethell* [1982] 1 106, ChD.

Child—

Care. See *Child* (Care—Local authority).

Discretion—

Exercise—

Fetter—Whether local authority entitled to have fixed policy on how it will exercise discretion conferred on it. *R v Rochdale Metropolitan Borough Council, ex p Cromer Ring Mill Ltd* [1982] 3 781, QBD.

Documents—

Generally. See *Local government* (Documents).

Local education authority. See *Education* (Local education authority—Documents).

Education—

Grant for university study. See *Education* (University—Grant for study—Local authority grant).

Homeless persons—

Housing. See *Housing* (Homeless person).

Housing—

Generally. See *Housing*.

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Duty to take care—

Act performed in exercise of statutory powers. See *Negligence* (Duty to take care—Statutory powers—Act performed in exercise of powers—Local authority).

Rates. See *Rates*.

Wardship proceedings—

Minor in care of local authority—

Generally. See *Child* (Care—Local authority—Wardship proceedings).

LOCAL GOVERNMENT

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Documents—

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Inspection by councillor—Inspection for performance of duties as member of council—Application for adoption order—Social services committee report on suitability of prospective parents to adopt foster child—Councillor of housing sub-committee requesting disclosure of social services report—Councillor claiming disclosure necessary to enable her to perform duties as councillor—Social services committee withholding report—Whether social services committee required to produce report. *R v City of Birmingham District Council, ex parte O* [1982] 2 356, CA.

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LONDON TRANSPORT EXECUTIVE

Fares—

Reduction—

Greater London Council requiring LTE to reduce fares by 25 per cent—Whether GLC acting in excess of statutory power—Transport (London) Act 1969, ss 5(1), 7(3)(b), 7(6). *Bromley London Borough Council v Greater London Council* [1982] 1 129, HL.

LONG LEASE

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MAGISTRATES (cont)

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Generally. *See* **Criminal law** (Committal—Preliminary hearing before justices).

Costs—

Criminal cases. *See* **Criminal law** (Costs—Magistrates' court).

See **Criminal law** (Costs—Magistrates' court).

Fine—

Committal to prison in default of payment—

Issue of committal warrant without a hearing—Issue of warrant postponed subject to conditions—Defendant failing to comply with conditions—Warrant issued without notice to defendant—Whether issue or warrant breach of natural justice—Magistrates' Courts Act 1980, s 77(2). *R v Chichester Justices, ex p Collins, R v Dewsbury Justices, ex p Simpson* [1982] 1 1000, QBD.

Husband and wife—

Generally. *See* **Husband and wife**.

Imprisonment. *See* **Sentence** (Imprisonment—Magistrates' court).

Information—

Laying of information—

Meaning of 'laying'. *See* **Jurisdiction**—Trial of information—Validity of information—Laying of information, *post*.

Jurisdiction—

Trial of information—

Validity of information—Laying of information—Invalid process issued on invalidly laid information—Defendant not required to attend court on first hearing of information and not present—Court having before it register setting out particulars of offence on which prosecution intended to proceed—Court at first hearing not considering information for purpose of issuing process in belief that valid process already issued—Case adjourned—Adjourned hearing taking place after time limit for commencing proceedings—Whether court having jurisdiction at adjourned hearing to try case—Whether information 'laid' at first hearing—Whether consideration of information for purpose of issuing process an essential ingredient of laying information—Magistrates' Courts Act 1980, s 127. *Hill v Alderton* [1982] 2 963, HL.

Juvenile court—

Care proceedings—

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Maintenance—

Husband and wife—

Summary proceedings. *See* **Husband and wife** (Summary proceedings—Financial provision).

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Order—

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Procedure—

Committal for trial at Crown Court. *See* **Crown Court** (Committal for trial at Crown Court—Procedure).

Reference to European Court—

Jurisdiction of magistrates to refer question regarding validity of EEC enactment. *See* **European Economic Community** (Reference to European Court—Referral by court of member state of question regarding validity of EEC enactment—Referral by magistrates).

Sentence—

Imprisonment. *See* **Sentence** (Imprisonment—Magistrates' court).

Summary trial—

Offence triable summarily or on indictment—

Determination of mode of trial of person attaining age of 17 after pleading to charge—Trial by juvenile court or in magistrates' court with right to elect trial by jury—Date when defendant's age relevant for determining mode of trial—Defendant attaining 17 before commencement of trial but after pleading to charge—Whether defendant entitled to elect trial by jury on attaining 17—Magistrates' Courts Act 1980, ss 18, 22. *Re Daley* [1982] 2 974, HL.

Summary trial for indictable offence—

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MAJORITY VERDICT

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Liability—

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MARINE INSURANCE

Perils insured against—

Taking at sea—

Loss of cargo—Lloyd's SG policy—Shipowner and captain diverting ship to unauthorised port and off-loading most of cargo—Off-loaded cargo fraudulently sold to third party—Ship taken out to sea and scuttled with remainder of cargo—Whether diversion of ship to unauthorised port a 'taking at sea'—Whether off-loading in port a 'taking at sea'—Whether loss of remainder of cargo when ship scuttled caused by 'perils' of the sea. *Shell Petroleum Co Ltd v Gibbs, The Salem* [1982] 1 1057, CA.

Safe port—

Charterparty. *See Shipping* (Charterparty—Safe port—Insurance).

Taking at sea—

Taking by shipowner—

Time and place at which taking occurs. *Shell International Petroleum Co Ltd v Gibbs* [1982] 1 225, QBD.

MARKETS AND FAIRS

Disturbance—

Levying of rival market—

Common law remedy—Disturbance of statutory market by levying of rival market—Whether common law remedy available to protect a statutory market—Markets and Fairs Clauses Act 1847, s 13. *Wakefield City Council v Box* [1982] 3 506, ChD.

MARRIAGE

Nullity—

Generally. *See Nullity*.

Polygamous—

Potentially polygamous—

Right to matrimonial relief—Marriage celebrated abroad under law permitting polygamy—Wife domiciled abroad and husband domiciled in England—Neither party permitted by law of their domiciles to marry second spouse during subsistence of marriage—Whether marriage void—Matrimonial Causes Act 1973, ss 11(b)(d), 47. *Hussain v Hussain* [1982] 3 369, CA.

Remarriage—

Divorced person—

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MARRIED WOMAN

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Abandonment of domicile of choice—

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MASTER AND SERVANT

Contract of service—

Frustration—

Imprisonment—Employee sentenced to 11 months' imprisonment—Sentence passed at beginning of employee's annual holiday—Employee released on bail pending appeal after one night in prison—Employer engaging permanent replacement for employee—On appeal probation substituted for imprisonment—Whether sentence frustrating contract of employment—Whether employee unfairly dismissed. *Chakki v United Yeast Co Ltd* [1982] 2 446, EAT.

Written particulars of employment—

Particulars which ought to have been included—Sick pay—Employee's contract not including any provision for sick pay—Employer's practice not to pay sick pay—Test for determining what terms ought to have been included in contracts of employment—Proper approach for resolving doubts about particulars which ought to have been included—Whether any presumption in favour of payment of sick pay—Whether employee entitled to sick pay—Employment Protection (Consolidation) Act 1978, ss 1, 11. *Mears v Safecar Security Ltd* [1982] 2 865, CA.

Duty of master—

Safe system of work—

Duty under Health and Safety at Work etc Act. *See Health and safety at work* (Employer's duties).

Statutory duty—

Health and Safety at Work etc Act. *See Health and safety at work* (Employer's duties).

Equality of treatment of men and women—

European Economic Community. *See European Economic Community* (Equality of treatment of men and women).

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Industrial relations. *See Industrial relations*.

Unfair dismissal. *See Unfair dismissal*.

MATRIMONIAL CAUSE

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MATRIMONIAL HOME

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Exclusion of party from matrimonial home—

Injunction. *See Injunction* (Exclusion of party from matrimonial home).

Generally. *See Husband and wife* (Matrimonial home).

Injunction—

Exclusion of party from matrimonial home. *See Injunction* (Exclusion of party from matrimonial home).

See Injunction (Exclusion of party from matrimonial home).

Generally. *See Injunction* (Husband and wife—Matrimonial home).

See Injunction (Husband and wife—Matrimonial home).

MAURITIUS

Public authorities—

Commission of inquiry—

Contempt of court—Whether law of contempt applying to commission of inquiry—Commissions of Inquiry Ordinance (Mauritius). **Badry v DPP of Mauritius** [1982] 3 973, PC.

MEASURE

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MEDICAL EVIDENCE

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MEDICAL PRACTITIONER

Disciplinary committee—

Natural justice—

Disclosure of information received by committee—Withholding information from practitioner—Committee entitled to withhold information as to practitioner's behaviour since the original hearing—Committee obtaining medical reports on practitioner's fitness to practice—Whether committee entitled to withhold reports from practitioner—General Medical Council Disciplinary Committee (Procedure) Rules Order in Council 1970, Appendix, r 47. **Crompton v General Medical Council** [1982] 1 35, PC.

Negligence—

Duty owed to fetus—

Extent of duty—Mother contracting infection during pregnancy—Infection involving risk of damage to fetus—Whether doctor having legal obligation to fetus to terminate its life to prevent existence in disabled state. **McKay v Essex Area Health Authority** [1982] 2 771, CA.

MEDICINE

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MEMBERS CLUB

Generally. *See* **Club** (Members' club).

MEMORANDUM

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Evidence of contract. *See* **Sale of land** (Memorandum of contract).

MEN AND WOMEN

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MENTAL HEALTH

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Patient's property—

Execution of will—

Application to judge—Power to order or direct execution of will for patient—Exercise of jurisdiction—Factors to be considered in making will for patient—Procedure on application to master or deputy master of Court of Protection for making of will—Jurisdiction of master or deputy master—Whether execution of will ought to be stayed pending appeal—Whether judge having unfettered discretion on appeal—Mental Health Act 1959, ss 100(4), 102(1)(c), 103(1)(d) as amended by the Administration of Justice Act 1969, s 17. **Re D (J)** [1982] 2 37, ChD.

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Reservation—

Implied term—Right to work implied in reservation—Reservation in respect of petroleum and natural gas—Grant by Crown in 1880 of right to coal, culm, ironstone and fireclay and 'all other mines and minerals (if any)' in or under certain land—Whether grant including oil and natural gas. **Earl of Lonsdale v A-G** [1982] 3 579, ChD.

MINERALS

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MINOR

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Practice—

Divorce proceedings. *See* **Divorce** (Practice—Children).

Wardship and custody proceedings—

Joinder of child as party—Official Solicitor as guardian ad litem—Joinder not to be ordered, even by consent, unless special reasons shown—Note of special reasons etc to be taken for guidance of Official Solicitor. **Practice Direction** [1982] 1 319, FamD.

MISCONDUCT

Arbitration—

Setting aside award. *See* **Arbitration** (Award—Setting aside award—Misconduct).

MISFEASANCE

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Officer. *See* **Company** (Winding-up—Misfeasance).

MISREPRESENTATION

Exclusion of liability for misrepresentation—

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Innocent misrepresentation—

Sale of land—

Preliminary inquiries before contract—Exclusion of liability for errors, mis-statements or omissions in answers to preliminary inquiry—Vendor stating in answer to preliminary inquiry that no boundary disputes affecting property—Property affected by boundary dispute—Vendor acting innocently but ought to have known of dispute—Contract containing condition that error, mis-statement or omission in answer to preliminary inquiry not to annul sale—Purchaser claiming to rescind sale because boundary dispute not disclosed—Whether exception clause precluding rescission—National Conditions of Sale (19th edn), condition 17(1). **Walker v Boyle, Boyle v Walker** [1982] 1 634, ChD.

MISUSE OF DRUGS

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MOLESTATION

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Generally. *See* **Injunction** (Molestation).

Husband or wife. *See* **Injunction** (Husband and wife—Molestation).

MORTGAGE

Order for possession of mortgaged property—

Suspncipal sum but provision also made for earlier payment in event of default by mortgagor—198230561

Possession of mortgaged property—

Order for possession. *See* **Order for possession of mortgaged property, ante**.

MOTOR VEHICLE

Abandoned or broken down vehicle on road. *See* **Road traffic** (Motor vehicle—Abandoned or broken down vehicle on road).

MUSICAL WORK

Live performance—

Bootlegging recordings—

Person entitled to bring action to prevent bootlegging. *See* **Copyright** (Infringement—Right of action—Bootlegging).

NAME

Change—

Parties to proceedings—

Practice. *See* **Practice** (Parties—Change of name).

NATIONAL INSURANCE

Supplementary benefit. *See* **Supplementary benefit**.

Unemployment benefit—

Disqualification for benefit—

Voluntarily leaving employment without just cause—Just cause—Teacher voluntarily leaving employment pursuant to scheme for premature retirement of older teachers—Scheme containing financial inducements for voluntary early retirement—Whether teacher voluntarily retiring early under scheme having 'just cause' for leaving employment—Whether teacher entitled to receive benefit for first six weeks after retirement—Social Security Act 1975, s 20(1)(a). **Crewe v Social Security Comr** [1982] 2 745, CA.

NATIONALISATION

Contract—

Frustration. *See* **Contract** (Frustration—Nationalisation).

NATIONALITY

Adoption—

Relevant consideration. *See* **Adoption** (Order—Discretion—Nationality).

NATURAL GAS

Crown rights. *See* **Petroleum rights** (Crown—Rights vested in Crown—Petroleum and natural gas situated inside and outside territorial waters).

NATURAL JUSTICE

General Medical Council.

Disciplinary committee. *See* **Medical practitioner** (Disciplinary committee—Natural justice).

Police—

Dismissal of probationer constable. *See* **Police** (Dismissal—Constable—Probationer constable—Natural justice).

Prison board of visitors—

Exercise of disciplinary powers—

Certiorari. *See* **Certiorari** (Jurisdiction—Prison board of visitors—Exercise of disciplinary powers).

Trade union—

Termination of membership. *See* **Trade union** (Membership—Termination of membership).

NEGLIGENCE

Building—

Damages—

Measure of damages. *See* **Damages** (Measure of damages—Negligence—Building).

NEGLIGENCE (cont)

Damages—

Interest—

Jurisdiction of Privy Council to award interest. *See* Privy Council (Jurisdiction—Interest—Interest on award of damages).

Measure of damages. *See* Damages (Measure of damages—Negligence).

Nervous shock. *See* Damages (Personal injury—Nervous shock).

Remoteness of damage—

Foreseeable harm. *See* Remoteness of damage, *post*.

Generally. *See* Damages (Remoteness of damage).

Wrongful entry into life—

Fetus. *See* Duty to take care—Persons to whom duty owed—Fetus—Wrongful entry into life, *post*.

Duty to take care—

Damage to property of another—

Title to property—Right of cif buyer to sue—Goods sold during shipment to cif buyer—Goods damaged by shipowner's negligence before buyer becoming holder of bill of lading—Whether buyer entitled to sue shipowner in tort even though not the owner of goods when damage occurring. *Schiffahrt Und Kahlen Gmbh v Chelsea Maritime Ltd, The Irene's Success* [1982] 1 218, QBD.

Defective work or product—

Duty to avoid producing defective work or product—Proximity—Defendants laying defective floor in plaintiffs' factory—Defective floor not causing damage to the person or to plaintiffs' other property—No contractual relationship between plaintiffs and defendants—Whether defendants liable to plaintiffs in negligence for cost of replacing defective floor—Whether parties in sufficient proximity for duty of care to arise. *Junior Books Ltd v Veitchi Co Ltd* [1982] 3 201, HL.

Driver of motor vehicle—

Foreseeable harm. *See* Duty to take care—Foreseeable harm—Duty to take care to avoid injury to persons who might foreseeably suffer injury from want of care—Driver of motor vehicle, *post*.

Police officer—Police officer pursuing person attempting to avoid arrest for arrestable offence—Extent of policeman's duty of care to that person. *Marshall v Osmond* [1982] 2 610, QBD.

Foreseeable harm—

Duty to take care to avoid injury to persons who might foreseeably suffer injury from want of care—Driver of motor vehicle—Duty to other road users and owners of property—Plaintiff suffering nervous shock on hearing that family involved in road accident—Plaintiff at home at time of accident—Whether duty of care owed to plaintiff by driver causing accident. *McLoughlin v O'Brian* [1982] 2 298, HL.

Occupier of premises. *See* Occupier's liability.

Persons to whom duty owed—

Fetus—Wrongful entry into life—Mother contracting infection during pregnancy—Doctor failing to diagnose and treat infection—Child born severely disabled—Child claiming damages against doctor for wrongful entry into life—Whether doctor owing duty to fetus to terminate pregnancy in order to prevent existence in disabled state—Whether child's claim disclosing reasonable cause of action—Whether claim should be struck out—RSC Ord 18, r 19(1). *McKay v Essex Area Health Authority* [1982] 2 771, CA.

Police driver. *See* Duty to take care—Driver of motor vehicle—Police officer, *ante*.

Statutory powers—

Act performed in exercise of powers—Local authority—Building operations—Legislation giving authority control over building operations—Plans—Building byelaws requiring approval of plans—Plans disclosing that house to be supported by concrete raft—Local authority passing plans on assumption that concrete raft would be adequate for its purpose—Raft constructed partly on natural soil and partly on fills of mixed composition—Raft inadequate and badly constructed—Raft and foundations constructed in breach of building byelaws—Subsequent damage to structure of building resulting from inadequate foundations—Extent of local authority's duty in considering and approving plans—Whether local authority liable for breach of duty to owner of building at time damage occurs. *Dennis v Charnwood Borough Council* [1982] 3 486, CA.

Economic loss—

Defective work or product. *See* Duty to take care—Defective work or product, *ante*.

Information or advice—

Solicitor—

Cause of action. *See* Solicitor (Negligence—Cause of action—Negligent advice).

Limitation of action—

Accrual of cause of action. *See* Limitation of action (When time begins to run—Actions in tort—Accrual of cause of action—Negligence).

Manufacturer's liability—

Defective work or product. *See* Duty to take care—Defective work or product, *ante*.

Medical practitioner—

Generally. *See* Medical practitioner (Negligence).

Occupier. *See* Occupier's liability.

Remoteness of damage—

Foreseeable harm—

Novus actus interveniens—Third party's negligence intervening between defendant's negligence and plaintiffs injuries—Test for determining whether chain of causation between tort and damage broken by novus actus interveniens. *Knightley v Johns* [1982] 1 851, CA.

Solicitor. *See* Solicitor (Negligence).

Sub-contractor—

Defective work—

Liability. *See* Duty to take care—Defective work or product, *ante*.

NERVOUS SHOCK

Damages for. *See* Damages (Personal injury—Nervous shock).

NEW TENANCY

Business premises. *See* Landlord and tenant (Business premises).

NEW ZEALAND

Husband and wife—

Division of matrimonial property—

Distinction between matrimonial and separate property—Business started after marriage with property belonging to husband before marriage—Whether proceeds of sale of business available for division in matrimonial proceedings—Exercise of discretion of local courts—Whether Privy Council entitled to interfere—New Zealand Matrimonial Property Act 1976 (No 166 of 1976), ss 8(e), 9(2). *Reid v Reid* [1982] 3 328, PC.

Statute—

Enforcement New Zealand statute in England—

New Zealand statute providing for forfeiture of historic articles unlawfully removed from New Zealand—Whether statute enforceable in England. *Attorney General for New Zealand v Ortiz* [1982] 3 432, QBD.

Interpretation—

New Zealand statutes deemed to be 'remedial'—Whether all statutes to receive purposive construction—New Zealand Acts Interpretation Act 1924, s 5(j). *Attorney General for New Zealand v Ortiz* [1982] 3 394, CA.

NEWSPAPER

Contempt of court—

Publications concerning legal proceedings. *See* Contempt of court (Publications concerning legal proceedings).

NON-PATRIAL

Immigration. *See* Immigration.

NULLITY

Recognition of foreign decree—

Right to recognition—

Marriage celebrated in England—Previous decision of English court that marriage valid under English law—Previous decision based on petitioner's consent to marriage—Foreign decree based on ground that marriage a sham although consented to—That ground not raised in English proceedings—Whether foreign decree entitled to recognition by English court. *Vervaeke v Smith (Messina and Attorney General intervening)* [1982] 2 144, HL.

OATH

Trust corporation—

Application for grant of probate. *See* Probate (Grant—Trust corporation—Application for grant—Oath in support of application).

OBSTRUCTION

Course of justice—

Generally. *See* Criminal law (Obstructing course of justice).

Legal proceedings—

Contempt of court. *See* Contempt of court (Obstruction of legal proceedings).

Police. *See* Criminal law (Obstructing constable in execution of duty).

OBTAINING PROPERTY BY DECEPTION

See Criminal law (Obtaining property by deception).

OCCUPIER'S LIABILITY

Visitor—

Permission to be on premises—

Right of way—Defendant owning and occupying land over which right of way granted—Milkman using right of way to deliver milk to third party having right of access over right of way—Milkman injured when falling through defective manhole in right of way—Whether milkman an invitee or licensee or would be treated as such at common law—Whether milkman a visitor of owner of land over which right of way granted—Whether defendant owing duty of care to milkman—Occupiers' Liability Act 1957, s 1(2). *Holden v White* [1982] 2 328, CA.

OFFER

Contract. *See* Contract (Offer and acceptance).

OFFICIAL SOLICITOR

Guardian ad litem—

Wardship proceedings—

Appointment. *See* Ward of court (Practice—Appointment of Official Solicitor as guardian and litem).

Ward of court—

Guardian ad litem of ward of court—

Costs—Practice. *See* Ward of court (Practice—Official Solicitor's costs).

Wardship proceedings—

Costs—

Practice. *See* Ward of court (Practice—Official Solicitor's costs).

OPHTHALMIC OPTICIAN

Erasure of name from register—

Infamous conduct in a professional respect—

'Profession'—'Infamous'—Canvassing by means of a letter—Letters sent to official of students' union at two colleges—Letters in breach of a previous undertaking to disciplinary committee not to advertise for clients—Letters criticising other members of profession and making careless statement as to price of contact lenses—Prominent advertisements placed in students' magazine and in professional magazine—Whether advertisements 'dignified and restrained'—Opticians Act 1958, s 1(1)(b)(3)—General Optical Council (Rules on Publicity) Order of Council 1981, rr 4, 5. *Le Scroog v General Optical Council* [1982] 3 257, PC.

OPTICIAN

Ophthalmic optician. *See* Ophthalmic optician.

OPTION

Option to purchase—

Tenant's option conferred by lease—

Uncertainty of option—Agreement to agree—Option to purchase at price to be fixed by valuers nominated by parties—Tenant seeking to exercise option—Landlord refusing to appoint valuer—Tenant asking court to order specific performance or to appoint valuer—Whether option uncertain—Whether court should order specific performance—Whether court having power to appoint valuer. *Sudbrook Trading Estate Ltd v Eggleton* [1982] 3 1, HL.

ORDER

Charging order. *See* **Execution** (Charging order).

Crown Court. *See* **Crown Court** (Order).

Financial provision—

Divorce. *See* **Divorce** (Financial provision).

Judgment. *See* **Judgment**.

ORIGINATING SUMMONS

Issue—

New practice and procedure. *See* **Practice** (Queen's Bench Division and Chancery Division—New practice and procedure).

Title—

New practice. *See* **Practice** (Queen's Bench Division and Chancery Division—New practice and procedure).

PARENT

Adoption of child—

Dispensing with consent of parent. *See* **Adoption** (Dispensing with consent of parent or guardian).

Rights in respect of child—

Assumption by local authority. *See* **Child** (Care—Local authority—Assumption by authority of parental rights).

PAROLE

Release from prison. *See* **Prison** (Release on licence).

PARTIES

Civil proceedings. *See* **Practice** (Parties).

PATERNITY

Affiliation proceedings. *See* **Affiliation**.

PAY

Equal pay—

Men and women—

Equality of treatment. *See* **Employment** (Equality of treatment of men and women).

PENAL STATUTE

See **Statute** (Penal statute).

PENALTY

Bankruptcy—

Whether penalty a 'debt provable in bankruptcy'. *See* **Bankruptcy** (Debts provable in bankruptcy—Penalty).

Income tax. *See* **Income tax** (Penalty).

PENDING ACTION

Land action—

Registration as land charge. *See* **Land charge** (Pending action).

PERJURY

Certiorari to quash order obtained as a result of perjured evidence. *See* **Certiorari** (Fraud—Perjury).

PERSONAL INJURIES

Action—

Medical evidence—

Number of expert witnesses. *See* **Evidence** (Medical evidence—Expert witnesses—Number of witnesses—Personal injuries action).

Damages—

Fatal accident. *See* **Fatal accident** (Damages).

Generally. *See* **Damages** (Personal injury).

PERSONAL INJURY

Interest. *See* **Interest** (Damages—Personal injury).

PERSONAL REPRESENTATIVES

Generally. *See* **Executor and administrator**.

See **Executor and administrator**.

PERVERTING COURSE OF JUSTICE

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PETITION

Company—

Compulsory winding-up—

Advertisement of petition. *See* **Company** (Compulsory winding-up—Advertisement of petition).

Divorce. *See* **Divorce** (Petition).

Faculty. *See* **Ecclesiastical law** (Faculty—Petition).

PETROL BOMB

Whether an 'explosive substance'. *See* **Explosives** (Offence—Making explosive substance with intent to endanger life or cause serious injury to property—Explosive substance).

PETROLEUM RIGHTS

Crown—

Rights vested in Crown—

Petroleum and natural gas situated inside and outside territorial waters—Rights included in mineral grant made by Crown—Whether rights to oil and natural gas statutorily vesting in Crown—Petroleum (Production) Act 1934—Continental Shelf Act 1964. *Earl of Lonsdale v A-G* [1982] 3 579, ChD.

PLACE OF SAFETY ORDER

Children and young persons. *See* **Children and young persons** (Detention—Place of safety order).

PLANNING

Town and country planning. *See* **Town and country planning**.

PLANT

Capital allowances—

Income tax—

Plant. *See* **Income tax** (Capital allowances—Plant).

PLEA

Criminal trial. *See* **Criminal law** (Trial—Plea).

PLEADING

Amendment—

Leave to amend after trial of action—

Statement of claim—Issue which trial judge bound to find against plaintiff or on which no evidence given at trial—Whether Court of Appeal should refuse leave to amend statement of claim—Whether Court of Appeal should give leave to appeal to House of Lords against refusal of leave to amend. *Williams v Home Office (No 2)* [1982] 2 564, CA.

Striking out—

No reasonable cause of action—

Defendant having defence under Limitation Acts—Whether pleading may be struck out as disclosing no reasonable cause of action merely because defendant may have defence under Limitation Acts—RSC Ord 18, r 19. *Ronex Properties Ltd v John Laing Construction Ltd (Clarke, Nicholls & Marcel (a firm), third parties)* [1982] 3 961, CA.

POLICE

Arrest without warrant. *See* **Arrest** (Arrest without warrant).

Constable—

Dismissal. *See* **Dismissal—Constable, post**.

Obstructing constable in execution of his duty. *See* **Criminal law** (Obstructing constable in execution of duty).

Dismissal—

Constable—

Probationer constable—Natural justice—Chief constable deciding to dispense with services of constable on basis of certain allegations and rumours—Constable informed that if he did not resign he would be dismissed—Constable not given opportunity to refute allegations and rumours—Whether chief constable having absolute discretion to discharge constable—Whether chief constable required to observe rules of natural justice before exercising discretion—Police Regulations 1971, reg 16(1). *Chief Constable of North Wales Police v Evans* [1982] 3 141, HL.

Motor vehicle—

Removal and disposal—

Abandoned or broken down vehicle on road. *See* **Road traffic** (Motor vehicle—Abandoned or broken down vehicle on road—Removal—Police powers of removal).

Negligence—

Duty to take care—

Police driver pursuing person attempting to avoid arrest for arrestable offence. *See* **Negligence** (Duty to take care—Driver of motor vehicle—Police officer).

Obstruction—

Obstructing constable in execution of his duty. *See* **Criminal law** (Obstructing constable in execution of his duty).

Powers—

Power to retain property relevant to criminal proceedings—

Accused obtaining money by deception on forged instruments—Accused putting stolen money into his own bank account—Police seeking to freeze money in bank account—Whether police having sufficient interest to apply for injunction freezing moneys in bank account obtained from another by criminal means—Extent of court's power to grant injunction in favour of police—Supreme Court Act 1981, s 37(1). *Chief Constable for Kent v V* [1982] 3 36, CA.

Search. *See* **Right of search, post**.

Private premises—

Power to enter and remove instrument of crime. *See* **Right of search—Right of search and seizure—Entry to private premises, post**.

Right of search—

Right of search and seizure—

Entry to private premises—Power to enter and remove instrument of crime—Police entering private premises without warrant and removing instrument of crime after defendant charged—Occupier of premises objecting to entry and resisting removal—Extent of police powers to enter premises without warrant in order to seize instrument of crime. *McLorie v Oxford* [1982] 3 480, QBD.

POLITICAL PARTY

Unincorporated association. *See* **Unincorporated association** (Requirements of unincorporated association—Political party constituted by members of local constituency associations and both Houses of Parliament).

POLYGAMOUS MARRIAGE

Generally. *See* **Marriage** (Polygamous).

PORT

- Safe port—
Charterparty. *See* **Shipping** (Charterparty—Safe port).

POSSESSION

- Controlled drugs—
Unlawful possession. *See* **Drugs** (Controlled drugs—Unlawful possession).
- Finder—
Right of possession—
Trover. *See* **Trover** (Finder—Right of possession).
- Mortgaged property—
Order for possession. *See* **Mortgage** (Order for possession of mortgaged property).
- Protected tenancy—
Recovery by landlord. *See* **Rent restriction** (Possession).
- Statutory tenancy—
See **Rent restriction** (Possession).

PRACTICE

- Adding defendants. *See* **Parties**—Adding defendant, *post*.
- See* **Parties**—Adding defendant, *post*.
- Admiralty. *See* **Admiralty** (Practice).
- Admission. *See* **Admission**.
- Affiliation proceedings—
Appeal—
Generally. *See* **Affiliation** (Affiliation order—Appeal).
- Amendment—
Pleading. *See* **Pleading** (Amendment).
- Appeal—
Affiliation proceedings. *See* **Affiliation** (Affiliation order—Appeal).
- Anton Piller order—
Ex parte refusal of order. *See* **Inspection of property**—Property subject-matter of action or in respect of which question arising—Interlocutory motion—Ex parte application—Refusal—Appeal, *post*.
- Rates. *See* **Rates** (Appeal).
- Summary judgment. *See* **Summary judgment**—Appeal, *post*.
- Arbitration. *See* **Arbitration** (Practice).
- Chamber proceedings—
Administrative arrangements—
Chancery Division. *See* **Chancery Division**—Administrative arrangements—Chancery chambers, *post*.
- Chancery Division—
Chancery chambers—Court file—Issue of process—Fees—Assignment of masters—Ex parte applications—Appeals—Filing of documents—Orders—Judgments by default—Agreed adjournment of motions—Motions judge—Listing—Receivers' accounts—RSC (Amendment No 2) 1982. *Practice Direction* [1982] 3 124, ChD.
- Chambers proceedings—
Administrative arrangements. *See* **Chancery Division**—Administrative arrangements—Chancery chambers, *ante*.
- Hearings by judges outside London—
Court and chambers procedure. *Practice Direction*. [1982] 3 124, ChD.
- New practice and procedure. *See* **Queen's Bench Division and Chancery Division**—New practice and procedure, *post*.
- Revenue list—
New listing procedure for revenue appeals—Abolition of Revenue Paper. *Practice Note*. [1982] 3 904, ChD.
- Title of proceedings. *See* **Title of proceedings**—Chancery Division, *post*.
- Children—
Divorce proceedings. *See* **Divorce** (Practice—Children).
- Circuit judge—
Mode of address. *See* **Judge** (Circuit judge—Deputy circuit judge—Mode of address).
- Companies Court—
Applications in Long Vacation—
Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts. Modification of existing arrangements. *Practice Direction* [1982] 2 454, Com Ct.
- Chief clerk—
Applications and orders—Exercise of functions by chief clerk—Direction that certain petitions not to be advertised before first hearing—Companies (Winding-up) Rules 1949, r 28. *Practice Direction* [1982] 1 846, ChD.
- Consent order—
Extension of time for complying with order—
Jurisdiction of court to extend time limit where party to consent order in default—Meaning of 'consent' order—Whether order evidencing real contract between parties or merely one to which parties did not object—Whether court having jurisdiction to extend time for complying with order—RSC Ord 3, r 5. *Siebe Gorman & Co Ltd v Pneupac Ltd* [1982] 1 377, CA.
- Financial provision—
Divorce proceedings. *See* **Divorce** (Financial provision—Consent order).
- Costs—
County court. *See* **County court** (Costs).
- Generally. *See* **Costs**.
- Legal aid. *See* **Legal aid**.
- Solicitor. *See* **Solicitor** (Costs).
- County court. *See* **County court**.
- Court of Appeal—
Civil Division. *See* **Court of Appeal** (Practice).
- Crown office list—
Uncontested proceedings. *See* **Uncontested proceedings**—Crown office list, *post*.

PRACTICE (cont)

Decree absolute of divorce. *See* **Divorce** (Decree absolute).

Discovery. *See* **Discovery**.

Dismissal of action for want of prosecution—

Inordinate delay without excuse—

Failure to deliver statement of claim. *See* **Action** (Dismissal—Failure to deliver statement of claim).

Divorce—

Decree absolute. *See* **Divorce** (Decree absolute).

Generally. *See* **Divorce** (Practice).

Execution. *See* **Execution**.

Extension of time—

Company—

Registration of charge. *See* **Company** (Charge—Registration—Extension of time).

Family Division—

Counsel's fees—

Interlocutory fees—Scale of fees to be allowed on taxation. **Practice Direction** [1982] 1 128, FamD.

Lump sum applications—

Costs—Estimate of parties' costs to be made—Party and party costs and balance payable to be distinguished in non-legal aid cases. **Practice Direction** [1982] 2 800, FamD.

Funds in court—

Investment of funds in court—

Admiralty practice. *See* **Admiralty** (Practice—Investment of funds in court).

House of Lords. *See* **House of Lords**

Injunction—

Generally. *See* **Injunction**.

Inspection of property—

Property subject-matter of action or in respect of which question arising—

Interlocutory motion—Ex parte application—Refusal—Appeal—Appeals normally to be heard in open court—Counsel to give written reasons where hearing in camera is sought. **Practice Note** [1982] 3 924, CA.

Interest—

Damages. *See* **Interest** (Damages).

Interest on costs. *See* **Costs** (Interest on costs).

Pleading—

Claim—Debt or liquidated sum—Contents of prayer for interest—Contractual interest—Law Reform (Miscellaneous Provisions) Act 1934—Bills of Exchange Act 1882. **Practice Direction** [1982] 3 1151, CA.

Interlocutory injunction. *See* **Injunction** (Interlocutory).

Investment of funds in court—

Admiralty practice. *See* **Admiralty** (Practice—Investment of funds in court).

Joinder of parties—

Wardship and custody proceedings—

Joinder of child as party. *See* **Minor** (Practice—Wardship and custody proceedings—Joinder of child as party).

Judge—

Mode of address. *See* **Judge** (Mode of address).

Judgment—

Generally. *See* **Judgment**.

Judicial review. *See* **Judicial review**.

Jury. *See* **Jury**.

Legal aid. *See* **Legal aid**.

Long Vacation—

Companies Court—

Applications in Long Vacation. *See* **Companies Court**—Applications in Long Vacation, *ante*.

Mareva injunction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction).

Matrimonial causes—

Lump sum applications. *See* **Family Division**—Lump sum applications, *ante*.

Mental patient—

Execution of will. *See* **Mental health** (Patient's property—Execution of will).

Minors—

Wardship and custody proceedings. *See* **Minor** (Practice—Wardship and custody proceedings).

Order—

Consent order—

Generally. *See* **Consent order**, *ante*.

Parties—

Adding defendant—

Amendment of writ—Date from which added defendant becomes party to proceedings—Arguable but not clear that action against added defendant timebarred at date of amendment—Whether joinder taking effect from date of original writ or from date writ amended—Whether if former court nevertheless having power to allow amendment on terms that joinder taking effect from date of amendment—RSC Ord 15, r 6(2)(b)(ii). **Liptons Cash Registers and Business Equipment Ltd v Huglin (GB) Ltd** [1982] 1 595, QBD.

Amendment of writ—Date from which added defendant becomes party to proceedings—Claim against proposed defendant time-barred—Plaintiff claiming that he had not acquired knowledge of relevant facts until within limitation period—Procedure for determining issue of date of plaintiff's knowledge—Whether issue of date of plaintiff's knowledge can be determined on application in existing action to amend writ to add proposed defendant—Whether plaintiff required to issue fresh writ against proposed defendant—Limitation Act 1939, s 2A(4)(b) (8). **Leadbitter v Hodge Finance Ltd** [1982] 2 167, QBD.

PRACTICE (cont)

Parties (cont)—

Change of name—

Company—Public company—Reregistration of name with words 'public limited company' or 'plc' or Welsh equivalent—Companies Act 1980, ss 2(2), 78(3)(b)(d). **Practice Direction** [1982] 1 384, QBD.

Proceedings relating to charities—

Permissible parties. *See* **Charity** (Proceedings—Parties—Permissible parties).

Pleading. *See* **Pleading.**

***See* **Pleading**.**

Preliminary point of law—

Arbitration proceedings. *See* **Arbitration** (Preliminary question of law).

Probate. *See* **Probate (Practice).**

Property—

Inspection of subject matter of cause of action. *See* **Inspection of property**—Property subject-matter of action or in respect of which question arising, *ante*.

Queen's Bench Division—

New practice and procedure. *See* **Queen's Bench Division and Chancery Division**—New practice and procedure, *post*.

Queen's Bench Division and Chancery Division—

Issue of writ—Postal facilities—Issue of originating summons—Service out of jurisdiction—Acknowledgment of service—Costs on default judgments—Appeal from district registrars—Evidence by deposition—Enforcing arbitration awards—RSC (Amendment No 2) 1982. **Practice Direction** [1982] 3 639, ChD & QBD.

Recorder—

Mode of address. *See* **Recorder** (Mode of address).

Renewal of writ—

Generally. *See* **Writ** (Extension of validity).

Service—

Summons—

Application for order that solicitor has ceased to act for party to litigation. *See* **Solicitor** (Withdrawal—Application for order that solicitor has ceased to act for party to litigation—Service of application).

Service out of the jurisdiction—

New practice and procedure—

Queen's Bench Division and Chancery Division. *See* **Queen's Bench Division and Chancery Division**—New practice and procedure, *ante*.

Stay of proceedings—

Arbitration—

Generally. *See* **Arbitration** (Stay of court proceedings).

Company—

Winding-up—Generally. *See* **Company** (Winding-up—Stay or restraint of proceedings against company).

Striking out—

Pleading—

Generally. *See* **Pleading** (Striking out).

Subpoena ad testificandum—

Issue—

Issue by High Court to secure attendance of witness before tribunal. *See* **Witness** (Attendance—Tribunal—Power of High Court to aid tribunal by issuing subpoena ad testificandum).

Summary judgment—

Appeal—

Further evidence—Admissibility—Evidence available at time of hearing application for summary judgment—Whether hearing application for summary judgment a hearing 'on the merits'—Whether further evidence admissible only on special grounds—RSC Ord 14, Ord 59, r 10(2), Ord 86. **Langdale v Danby** [1982] 3 129, HL.

Conditional leave to defend—

Payment into court as condition of giving leave—Discretion—Sum which defendant not able to pay—Whether proper exercise of discretion—RSC Ord 14. **MV Yorke Motors (a firm) v Edwards** [1982] 1 1024, HL.

Leave to defend—

Conditional leave to defend. *See* **Summary judgment**—Conditional leave to defend, *ante*.

Summons—

Service—

Application for order that solicitor has ceased to act for party to litigation. *See* **Solicitor** (Withdrawal—Application for order that solicitor has ceased to act for party to litigation).

Summons for directions—

Admiralty practice. *See* **Admiralty** (Practice—Directions—Summons for directions).

Taxation of costs—

Generally. *See* **Costs** (Taxation).

Title of proceedings—

Chancery Division—

Multiple plaintiffs or defendants—Approved method. **Re Brickman's Settlement, Brickman v Goddard Trustees (Jersey) Ltd** [1981] 1 336, ChD.

Trust corporation—

Grant of probate. *See* **Probate** (Grant—Trust corporation).

Probate. *See* **Probate** (Practice—Trust corporation).

Uncontested proceedings—

Crown office list—

Civil proceedings—Judicial review, cases stated, statutory appeals etc—Disposal—Disposal without attendance. **Practice Direction**. [1982] 2 704, QBD.

Want of prosecution—

Arbitration. *See* **Arbitration** (Practice—Want of prosecution).

Wardship proceedings. *See* **Ward of court** (Practice).

Withdrawal of solicitor. *See* **Solicitor (Withdrawal).**

PRACTICE (cont)

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Right to enter and remove instrument of crime. *See* **Police** (Right of search—Right of search and seizure—Entry to private premises).

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False indication as to. *See* **Trade description** (False or misleading indication as to price).

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Board of visitors—

Exercise of disciplinary powers—**Certiorari. *See* **Certiorari** (Jurisdiction—Prison board of visitors—**

Exercise of disciplinary powers).

Escape from prison—

Permitting escape from prison. *See* **Criminal law** (Prison breach—Permitting escape from lawful custody).

Letters—

Prisoner's letters—

Correspondence with legal adviser—Power of governor to read or stop correspondence—Extent of power—When contempt of court. *See* **Contempt of court** (Obstruction of legal proceedings—Obstruction of person's right of access to courts—Prisoner—Legal communications).

Release on licence—

Conviction of further offence—

Revocation of licence—Appeal—Judge sentencing accused to term of imprisonment and revoking release on licence—Whether accused having right of appeal against revocation of licence—Whether order revoking licence a 'sentence'—Criminal Justice Act 1967, ss 60, 61, 62(7)—Criminal Appeal Act 1968, s 9. **R v Welch** [1982] 2 824, CA.

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PRIVATE INTERNATIONAL LAW

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PRIVATE PROSECUTION

Director of Public Prosecutions undertaking conduct of proceedings—

Scope of 'conduct' of proceedings. *See* **Criminal law** (Proceedings—Duties of Director of Public Prosecutions—Undertaking conduct of proceedings).

PRIVATE RESIDENCE

Capital gains tax—

Exemption. *See* **Capital gains tax** (Exemptions and reliefs—Private residence).

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Damages—

Interest—

Jurisdiction to award interest. *See* **Jurisdiction**—Interest—Interest on award of damages, *post*.

Jurisdiction—

Interest on award of damages—Jurisdiction to award interest—Determination of appropriate rate of interest. **Central Electricity Generating Board of Mauritius v Bata Shoe Co (Mauritius) Ltd** [1982] 3 1149, PC.

PROBATE

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Dismissal of action—

Delay in instituting action—Action commenced six years from grant of probate—Application to strike out—Whether delay alone a ground for striking out probate action—Whether action must also be shown to be frivolous, vexatious or abuse of process—RSC Ord 18, r 19(1)(d). **Re Flynn (decd), Flynn v Flynn** [1982] 1 882, ChD.

No reasonable cause of action—Plea that testator did not know and approve contents of will—Plea of undue influence—Particulars pleading that beneficiary induced gravely ill testator to execute codicil benefitting beneficiary the day before he died—Codicil drawn up in accordance with testator's previous instructions—Whether pleading sufficiently specifying plea of want of knowledge and approval of contents of codicil—Whether pleading sufficiently supporting plea of undue influence and showing testator coerced into signing codicil—RSC Ord 18, r 19(1)(e), Ord 76, r 9(3). **Re Flynn (decd), Flynn v Flynn** [1982] 1 882, ChD.

PROBATE (cont)

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Application for grant—Oath in support of application—Wording Oath referring to Supreme Court of Judicature (Consolidation) Act 1925 instead of Supreme Court Act 1981—Acceptance of oath in support. **Practice Direction** [1982] 1 512, FamD.

Practice. See **Practice**—Trust corporation, *post*.

Practice—

Grant of probate to trust corporation. See **Grant**—Trust corporation, *ante*.

Public company—Reregistration of name with words 'public limited company' or 'plc' or Welsh equivalent—Companies Act 1980, ss 2(2), 78(3)(b)(d). **Practice Direction** [1982] 1 384, FamD.

PROBATION

Order—

Generally. See **Sentence** (Probation order).

PROCEDURE

High Court. See **Practice**.

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PROFESSIONAL INDEMNITY INSURANCE

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PROFESSIONAL MISCONDUCT

Ophthalmic optician—

Erasure of name from register. See **Ophthalmic optician** (Erasure of name from register—Infamous conduct in a professional respect).

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Disciplinary proceedings. See **Solicitor** (Disciplinary proceedings).

PROPERTY

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Charge. See **Company** (Charge).

Criminal damage. See **Criminal law** (Damage to property).

Criminal proceedings—

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Divorce—

Adjustment order. See **Divorce** (Property—Adjustment order).

Husband and wife—

New Zealand—

Division of matrimonial property. See **New Zealand** (Husband and wife—Division of matrimonial property).

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Obtaining by deception. See **Criminal law** (Obtaining property by deception).

Police powers—

Power to retain property relevant to criminal proceedings. See **Police** (Powers—Power to retain property relevant to criminal proceedings).

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Evidence—Self-incrimination. See **Evidence** (Privilege—Incrimination of witness or spouse—Exception to rule against self-incrimination—Proceedings for recovery of property).

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Bankruptcy—

Avoidance of settlement. See **Bankruptcy** (Avoidance of settlement).

Capital gains tax. See **Capital gains tax** (Settlement).

Generally. See **Settlement**.

Tenants in common. See **Tenants in common**.

Theft. See **Criminal law** (Theft).

PROSECUTION

Evidence—

See **Criminal evidence** (Prosecution evidence).

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Illegal entry into United Kingdom. See **Immigration** (Illegal entry and similar offences—Time limit for prosecutions).

PROTECTED TENANCY

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PUBLIC AUTHORITY

Statutory powers—

Excessive exercise of statutory powers—

Greater London Council—Reduction of fares on London Transport—GLC requiring London Transport to reduce fares by 25 per cent—Fare reduction likely to cause substantial operating deficit by London Transport—GLC empowered to take necessary and appropriate action to enable London Transport to balance accounts—GLC proposing to make grant to London Transport to enable it to balance its accounts—GLC issuing supplementary rate precept to London boroughs to finance grant—Whether GLC acting in excess of statutory powers—Transport (London) Act 1969, ss 5(1), 7(3)(b), 7(6). **Bromley London Borough Council v Greater London Council** [1982] 1 129, HL.

PUBLIC COMPANY

Generally. See **Company**.

Party to civil proceedings—

Change of name—

Practice. See **Practice** (Parties—Change of name—Company).

PUBLIC INTEREST

Discovery of documents—

Privilege. *See* **Discovery** (Privilege—Production contrary to public interest).

PUBLIC ORDER

Offensive conduct conducive to breaches of peace—

Threatening, abusive or insulting words or behaviour—

Insulting—Nature of insulting behaviour—Homosexual activity in public lavatory—Accused making homosexual advances to plain clothes police officer—Accused's behaviour not observed by anyone else—Whether accused indulging in 'insulting behaviour ... likely' to occasion breach of peace—Whether reaction of other persons who might have observed conduct to be taken into account—Whether likelihood of disturbance short of violence sufficient to constitute breach of peace—Public Order Act 1936, s 5. *Parkin v Norman, Valentine v Lilley* [1982] 2 583, QBD.

Public place—

See Offensive conduct conducive to breaches of peace—Threatening, abusive or insulting words or behaviour, *ante*.

PUBLIC TRANSPORT

London Transport Executive. *See* **London Transport Executive**.

PUBLICATION

Contempt of court—

Publications concerning legal proceedings. *See* **Contempt of court** (Publications concerning legal proceedings).

RACE RELATIONS

Discrimination—

Discrimination against racial group—

Sikhs—Racial group defined by reference to colour, race nationality or ethnic or national origins—Ethnic or national origins—Meaning of ethnic—Headmaster refusing to admit Sikh boy to school unless he removed his turban and cut his hair—Whether unlawful discrimination—Whether Sikhs a 'racial group'—Whether Sikhs a group defined by reference to 'ethnic or national origins'—Race Relations Act 1976, ss 1(1)(b), 3(1). *Mandla v Dowell Lee* [1982] 3 1108, CA.

Non-discrimination notice—

Requirements of notice—

Appeal—Procedure—Race Relations Act 1976, s 59. *Commission for Racial Equality v Amari Plastics Ltd* [1982] 2 499, CA.

Appeal—Scope of appeal—Whether appeal limited to appeal against reasonableness of requirements of the notice—Whether appellant entitled to challenge all findings of fact on which notice was based—Race Relations Act 1976, s 59. *Commission for Racial Equality v Amari Plastics Ltd* [1982] 2 499, CA.

RACIAL DISCRIMINATION

See **Race relations**.

RAPE

See **Criminal law** (Rape).

RATES

Appeal—

Appeal to Crown Court—

Mode of appeal—Whether appeal by way of judicial review—General Rate Act 1967, s 7. *R v Rochdale Metropolitan Borough Council, ex p Cromer Ring Mill Ltd* [1982] 3 761, QBD.

Overpayment—

Refund—

Discretion to refund overpayment of rates—Extent of discretion—Whether discretion complete and unfettered—General Rate Act 1967, s 9. *R v Rochdale Metropolitan Borough Council, ex p Cromer Ring Mill Ltd* [1982] 3 761, QBD.

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Ratepayer's locus standi. *See* **Local authority** (Action—Action against local authority—Action by ratepayer against local authority).

REAL PROPERTY

Tenants in common. *See* **Tenants in common** (Real property).

RECEIVER

Company—

Generally. *See* **Company** (Receiver).

RECORDER

Assistant recorder—

Mode of address—

Style of reference in court list. *Practice Direction* [1982] 1 320, CA.

Mode of address—

Style of reference in court list. *Practice Direction* [1982] 1 320, CA.

RECOVERY

Tax—

Value added tax. *See* **Value added tax** (Recovery of tax).

REDUNDANCY

Payment—

Equality of treatment of men and women—

European Economic Community. *See* **European Economic Community** (Equality of treatment of men and women—Equal working conditions—Redundancy benefit).

REFERENCE

European Court. *See* **European Economic Community** (Reference to European Court).

REGISTERED LAND

Sale—

Constructive trust. *See* **Trust and trustee** (Constructive trust—Sale of registered land).

REGISTRAR

Court of Appeal—

Civil Division—

Functions of registrar. *See* **Court of Appeal** (Practice—New practice and procedure—Civil Division—Registrar).

REGISTRATION

Charge—

Charge created by company. *See* **Company** (Charge—Registration).

Common land and rights of common. *See* **Commons** (Registration).

See **Commons** (Registration).

Land—

Common land. *See* **Commons** (Registration).

Land charge—

Generally. *See* **Land charge** (Registration).

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Trade mark—

Generally. *See* **Trade mark** (Registration).

RELIGIOUS ORGANISATION

Unincorporated association—

Undue influence—

Presumption of undue influence—Whether claim based on presumption of undue influence can be raised against unincorporated association. *See* **Equity** (Undue influence—Presumption of undue influence—Unincorporated association—Religious organisation).

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Divorced person—

Application for financial provision. *See* **Divorce** (Financial provision—Application—Remarriage of party).

REMTENESS OF DAMAGE

Generally. *See* **Damages** (Remoteness of damage).

Negligence. *See* **Negligence** (Remoteness of damage).

RENT

Agricultural holding—

Arbitration on terms of tenancies as to rent. *See* **Agricultural holding** (Arbitration—Rent).

Business premises—

New tenancy. *See* **Landlord and tenant** (Rent—Business premises—New tenancy).

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Tenants in common—

Real property—

Occupation of whole property by one of tenants in common. *See* **Tenants in common** (Real property—Occupation of whole property by one of tenants in common—Rent).

RENT RESTRICTION

Possession—

Dwelling subject to protected or statutory tenancy—

Effect on subtenancy of termination of superior tenancy—Subtenant to whom dwelling has been lawfully sublet—Extent of subtenant's right to remain in possession—Meaning of 'lawfully sublet'—Dwelling lawfully sublet without landlord's consent—Tenant's tenancy terminated—Landlord bringing proceedings for possession against subtenant—Whether subletting by original tenant without landlord's consent entitling landlord to possession order against subtenant—Rent Act 1977, ss 98(1)(b), 137, Sch 15, Case 6. *Leith Properties Ltd v Springer* [1982] 3 731, CA.

House required by landlord for own use—

Plaintiffs claiming as personal representatives of beneficial owners—Administrators of deceased parents' estates letting house belonging to estates—Administrators also adopting deceaseds' infant children who were beneficial owners of house—Defendant holding over as statutory tenant—Administrators claiming possession as landlords—Administrators wishing to live in house with children—Whether personal representative having no beneficial interest in property can be 'the landlord' of premises for which possession claimed—Whether administrators entitled to claim possession as landlords requiring possession of house for their occupation—Rent Act 1977, s 98(1)(b), Sch 15, Case 9. *Patel v Patel* [1982] 1 68, CA.

REPAIR

Lease—

Covenant—

Breach. *See* **Landlord and tenant** (Breach of covenant to repair).

REPORT

Newspaper—

Committal proceedings. *See* **Criminal law** (Committal—Preliminary hearing before justices—Newspaper report).

REPRESENTATIVE ACTION

Minority shareholder. *See* **Company** (Minority shareholder—Representative action).

RESIDENCE

Capital gains tax—

Exemption. *See* **Capital gains tax** (Exemptions and reliefs—Private residence).

RESTRICTIVE COVENANT AFFECTING LAND

Discharge or modification—

Conditions to be satisfied—

Restriction not securing to persons entitled to benefit of it any practical benefits of substantial value or advantage—Benefits—Whether landscape view not visible from land itself but visible from land close by capable of being a 'practical benefit'—Whether evidence that persons entitled to benefit actually taking advantage of it essential—Law of Property Act 1925, s 84(1)(1A). *Gilbert v Spoor* [1982] 2 576, CA.

RESTRICTIVE TRADE PRACTICES

European Economic Community—

Rules on competition. *See* **European Economic Community** (Rules on competition).

RETRIAL

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REVENUE LIST

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RIGHT OF COMMON

Registration. *See* **Commons** (Registration).

ROAD

Carriage of goods by road—

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ROAD TRAFFIC

Motor vehicle—

Abandoned or broken down vehicle on road—

Removal—Police powers of removal—Police power to arrange for removal—Whether police vicariously liable for negligence of independent contractor engaged to remove abandoned vehicle—Removal and Disposal of Vehicles Regulations 1968 reg 4. *Rivers v Cutting* [1982] 3 69, CA.

SAFE PORT

Charterparty. *See* **Shipping** (Charterparty—Safe port).

SAFE SYSTEM OF WORKING

Duty to give information or advice—

Health and Safety at Work etc Act. *See* **Health and safety at work** (Employer's duties).

SAFETY

Employees—

Duty of employer under Health and Safety at Work etc Act. *See* **Health and Safety at Work** (Employer's duties).

SALE OF GOODS

C i f contract—

Passing of property—

Unascertained goods. *See* **Passing of property**—Unascertained goods—Ascertainment—*C i f* contract, *post*.

Passing of property—

Appropriation of goods to contract—

Intention of parties—Unascertained goods—Presumption that property not passing until goods appropriated to contract—Parties intending that property should pass before appropriation—Whether property passing according to parties' intention—Sale of Goods Act 1893, s 18, r 5(1). *Karlshamms Olje Fabriker v Eastport Navigation Corp'n, The Elafi* [1982] 1 208, QBD.

Unascertained goods—

Ascertainment—*C i f* contract—Purchase of goods in bulk under separate contracts—Purchaser entitled to all remaining goods after prior deliveries—Goods damaged after prior deliveries but before delivery to purchaser—Whether goods not ascertained until physically allocated to separate contracts—Whether goods ascertained by process of exhaustion—Sale of Goods Act 1893, s 16. *Karlshamms Olje Fabriker v Eastport Navigation Corp'n, The Elafi* [1982] 1 208, QBD.

Price—

False or misleading indication as to price. *See* **Trade description** (False or misleading indication as to price).

Trade description—

False trade description. *See* **Trade description**.

Weights and measures. *See* **Weights and measures**.

SALE OF LAND

Contract—

Memorandum—

Evidence of contract. *See* **Memorandum of contract**, *post*.

Specific performance. *See* **Specific performance** (Sale of land).

Local authority—

Sale of local authority house to tenant. *See* **Housing** (Local authority houses—Sale of house—Tenant's right to buy).

Memorandum of contract—

Signature of party to be charged—

Vendor's lawyer giving receipt for deposit received—Vendor's lawyer receiving deposit as stakeholder—Whether stakeholder having authority to sign memorandum on behalf of vendor—Statute of Frauds 1762 (Barbados), s 2. *Elias v George Sahley & Co (Barbados) Ltd* [1982] 3 801, PC.

SALE OF LAND (cont)

Memorandum of contract (cont)—

Two documents—

Oral agreement for sale of land—Letter from purchaser's lawyer containing terms of contract and enclosing deposit—Vendor's lawyer giving receipt for deposit—Receipt containing neither contractual terms nor reference to letter—Parol evidence admitted to explain transaction referred to in receipt and to identify letter as relating to transaction—Whether parol evidence rightly admitted—Whether letter and receipt together constituting sufficient note or memorandum evidencing oral contract—Statute of Frauds 1762 (Barbados), s 2. *Ellis v George Sahley & Co (Barbados) Ltd* [1982] 3 801, PC.

Misrepresentation—

Innocent misrepresentation. *See* **Misrepresentation** (Innocent misrepresentation—Sale of land).

Registered land—

Constructive trust. *See* **Trust and trustee** (Constructive trust—Sale of registered land).

Rescission of contract—

Innocent misrepresentation. *See* **Misrepresentation** (Innocent misrepresentation—Sale of land).

Specific performance—

Generally. *See* **Specific performance** (Sale of land).

SELF-INCRIMINATION

Witness—

Privilege against self-incrimination. *See* **Evidence** (Privilege—Incrimination of witness or spouse).

SENTENCE

Appeal—

Binding-over order—

Right of appeal against order—Whether binding-over order a 'sentence'—Criminal Appeal Act 1968, ss 9, 50(1). *R v Williams (Carl)* [1982] 3 1092, CA.

Binding over—

Condition of recognisance—

Power of Crown Court to make it a condition that offender leaves the jurisdiction *See* **Crown Court** (Binding over—Powers of court—Terms of order).

Concurrent sentences—

Reduction—

Period spent in custody. *See* **Reduction**—Period spent in custody—Concurrent sentences, *post*.

Deportation—

Recommendation—

Detention pending making of deportation order—Detention of person released on bail—Release on bail by any court having power to release person bailed—Applicant admitted to bail pending trial on one offence—Applicant later convicted of second offence by another court and recommended for deportation—On completion of imprisonment for second offence applicant detained in prison pending making of deportation order—Whether applicant 'for the time being released on bail by any court having power so to release [her]'—Whether applicant entitled to invoke grant of bail in respect of first offence as rendering invalid her detention pending deportation for second offence—Immigration Act 1981, Sch 3, para 2(1). *R v Governor of Holloway Prison, ex parte Giambi* [1982] 1 434, QBD.

Fine—

Child or young person. *See* **Children and young persons** (Fine).

Forfeiture order—

Forfeiture of property—

Property—Real property—Defendant convicted of drug offences—Court ordering forfeiture of house belonging to defendant—Whether court having jurisdiction to order forfeiture of real property—Whether jurisdiction to make forfeiture order limited to personal property—Powers of Criminal Courts Act 1973, s 43. *R v Khan* [1982] 3 969, CA.

Imprisonment—

Magistrates' court—

Consecutive terms—Committal to custody for breach of injunction in domestic proceedings—Whether committal to custody in domestic proceedings the same as imprisonment—Whether magistrates having power to order consecutive periods of custody for separate breaches of injunction—Magistrates' Courts Act 1980, ss 63(3), 133(1). *Head v Head* [1982] 2 14, FamD.

Parole. *See* **Prison** (Release on licence).

Probation order—

Terms of order—

Additional requirements—Attendance at day training centre—Non-statutory day centre—Whether conditions for attendance at statutory centres also applicable to non-statutory centres—Powers of Criminal Courts Act 1973, ss 2(3), 4. *Cullen v Rogers* [1982] 2 570, HL.

Additional requirements—Limitations on additional requirements—Custodial or other element amounting to a sentence not to be imposed—Discretion conferred on probation officer to be well defined—Powers of Criminal Courts Act 1973, s 2(3). *Cullen v Rogers* [1982] 2 570, HL.

Willingness of offender to comply with order—

Jurisdiction of court—Willingness of offender to comply with order not giving court jurisdiction to impose conditions not authorised by legislation—Powers of Criminal Courts Act 1973, s 2(6). *Cullen v Rogers* [1982] 2 570, HL.

Rape. *See* **Criminal law** (Rape—Sentence).

Reduction—

Period spent in custody—

Concurrent sentences—Defendant spending separate periods in custody pending sentence for separate offences—Defendant sentenced to concurrent periods of imprisonment—Whether defendant's sentence should be reduced by both periods spent in custody pending sentence—Criminal Justice Act 1967, s 67(1). *R v Governor of Blundeston Prison, ex p Gaffney* [1982] 2 492, QBD.

SENTENCE (cont)

Suspended sentence—

Partial suspension—

Matters to be considered by court before ordering partial suspension of sentence—Circumstances in which partially suspended sentence appropriate—Whether court can order partial suspension of sentence for offence committed before court given power to order partial suspension—Criminal Law Act 1977, s 47(1)(8), Sch 14, para 5. *R v Clarke (Linda)* [1982] 3 232, CA.

SERVICE CHARGE

Business premises—

Inclusion in terms of new tenancy. *See Landlord and tenant* (Business premises—Terms of new tenancy—Inclusion of service charge over and above reserved rent).

SERVICE CONTRACT

Generally. *See Master and servant* (Contract of service).

SERVICES

Trade or business—

False or misleading statement as to services. *See Trade description* (False or misleading statement as to services etc).

SETTLEMENT

Bankruptcy—

Avoidance of settlement. *See Bankruptcy* (Avoidance of settlement).

Capital gains tax—

Generally. *See Capital gains tax* (Settlement).

Contingent interest—

Contingent interest distinguished from interest dependent on event bound to happen—

Interest subject to condition that beneficiary would survive designated person—Designated person described by reference to newspaper announcement of his death—Possibility that no person would satisfy description of designated person remote—Whether interest dependent on real contingency. *Inland Revenue Comrs v Trustees of Sir John Aird's Settlement* [1982] 2 929, ChD.

Discretionary trust—

Income tax. *See Income tax* (Settlement—Discretionary trust).

SEX DISCRIMINATION

Employment—

Discrimination against a woman. *See Employment* (Discrimination against a woman).

SEXUAL OFFENCES

Cross-examination of complainant about previous sexual experience with other men. *See Criminal evidence* (Sexual offence—Cross-examination of complainant about previous sexual experience with other men).

SHAREHOLDER

Minority shareholder—

Company. *See Company* (Minority shareholder).

SHARES

Transfer of shares—

Generally. *See Company* (Transfer of shares).

SHIPPING

Bill of lading—

Incorporation of terms of charterparty—

Arbitration clause—Bill of lading providing for 'all other conditions ... as per [the] charterparty'—Charterparty providing for bill of lading to incorporate arbitration clause—Whether arbitration clause a 'condition' incorporated in bill of lading—Whether reference to charterparty permissible to ascertain terms incorporated in bill of lading. *Astro Valiente Compania Naviera SA v Pakistan Ministry of Food and Agriculture (No 2), The Emmanuel Colocotronis (No 2)* [1982] 1 823, QBD.

Transfer of rights and liabilities—

Cargo damaged by negligence of shipowners—Action by cif buyer of cargo—Buyer not holding bill of sale and not having title to cargo—Cargo at buyer's risk under contract with sellers—Whether buyer entitled to sue shipowners in negligence. *Schiffahrt Und Kahlen GmbH v Chelsea Maritime Ltd, The Irene's Success* [1982] 1 218, QBD.

Cargo—

Loading and discharging. *See Loading and discharging, post.*

Loss or damage—

Taking at sea—Insurance. *See Marine insurance* (Perils insured against—Taking at sea—Loss of cargo).

Carriage by sea—

Damages for breach of contract—

Loss of or damage to goods—Cargo shipped from English port—Cargo owners entitled under Hague-Visby Rules to bring action in England—Bill of lading providing for Dutch court to have exclusive jurisdiction—Carrier's liability limited under bill of lading to £250—Hague-Visby Rules extending carrier's liability to £11,500—Damage to cargo during carriage estimated at £22,000—Whether Hague-Visby Rules ousting proper law of contract—Whether exclusive jurisdiction and limitation of liability provisions in bill of lading null and void—Carriage of Goods by Sea Act 1971, Sch, art III, para 8, art X. *The Hollandia* [1982] 3 1141, HL.

Seaworthiness of vessel—

Charterparty incorporating Hague Rules. *See Charterparty—Seaworthiness of vessel, post.*

Charterparty—

Arbitration—

Award—Generally. *See Arbitration* (Award).

Arbitration clause—

Incorporation in bill of lading. *See Bill of lading—Incorporation of terms of charterparty—Arbitration clause, ante.*

SHIPPING (cont)

Charterparty (cont)—

Safe port—

Insurance—Owner's right to insure vessel against risks of unsafety arising from breach of charterer's duty with respect to safety of vessel—Whether owner's right to insure freeing charterer from liability for risks of unsafety arising after vessel's arrival at port which was prospectively safe at date of nomination. *Kodros Shipping Corp v Empresa Cubana de Fletes, The Evia* [1982] 3 350, HL.

Obligation of charterer to nominate safe port—Prospective safety—Unexpected and abnormal event—Port becoming unsafe after nomination and after arrival—Whether charterer in breach of obligation to nominate safe port—Whether charterer's obligation to nominate safe port amounting to a warranty. *Kodros Shipping Corp v Empresa Cubana de Fletes, The Evia* [1982] 3 350, HL.

Whether port must be politically safe as well as physically safe. *Kodros Shipping Corp v Empresa Cubana de Fletes, The Evia* [1982] 3 350, HL.

Seaworthiness of vessel—

Obligation of owners to make vessel seaworthy—Ship carrying too much cargo to pass through Panama Canal—Ship fully efficient in all other respects—Whether ship unseaworthy—Carriage of Goods by Sea Act 1936 (USA), Sch (Hague Rules), art III, r 1 (a). *Actis Co Ltd v Sanko Steamship Co Ltd, The Aquacharm* [1982] 1 390, CA.

Time charter—

Generally. *See* Time charterparty, *post*.

Discharge—

Expenses of discharging cargo—

Liability of charterers for expenses of off-loading and reloading occurring during voyage. *See* Loading and discharging—Expenses, *post*.

Safe port—

Obligation of charterer to nominate safe port. *See* Charterparty—Safe port—Obligation of charterer to nominate safe port, *ante*.

Insurance. *See* Marine insurance.

Loading and discharging—

Expenses—

Charterers required to load and discharge cargo at their expense—Ship carrying too much cargo to pass through Panama Canal—Part of cargo off-loaded to enable ship to pass through canal and then reloaded—Whether charterers liable for expenses of off-loading and reloading occurring during voyage. *Actis Co Ltd v Sanko Steamship Co Ltd, The Aquacharm* [1982] 1 390, CA.

Seaworthiness of vessel—

Charterparty incorporating Hague Rules. *See* Charterparty—Seaworthiness of vessel, *ante*.

Time charterparty—

Cesser of hire—

Hire not payable if time lost from 'cause preventing full working of vessel'—Ship carrying too much cargo to pass through Panama Canal—Time lost while ship lightened to enable it to pass through canal—Whether overloading preventing full working of vessel. *Actis Co Ltd v Sanko Steamship Co Ltd, The Aquacharm* [1982] 1 390, CA.

Payment of hire—

Punctual payment—Anti-technicality clause—Owners to give 48 hours' notice to rectify default of payment before exercising right to withdraw ship—Payment not made on due date—Owners purporting to give conditional notice to rectify if payment not received—Notice of withdrawal given at end of banking hours on due date of payment—Whether default occurring at end of banking hours or at midnight on due date—Whether owners' notice to rectify valid—Whether terms of notice sufficiently clear. *Afivos Shipping Co SA v Pagnan* [1982] 2 18, CA.

Safe port. *See* Charterparty—Safe port, *ante*.

Withdrawal of vessel for non-payment of hire—

Notice of withdrawal—Clause providing that owners to give to charterers 48 hours' notice before withdrawal of vessel for non-payment of hire—Charterers notifying owners of claim to set off certain payments and disbursements against cost of hire—Owners withdrawing vessel without giving notice—Whether charterers waiving right to notice by refusal to pay hire—Whether notification of claim to set off giving rise to promissory estoppel—Whether implied clear and unequivocal representation that owners did not need to give notice. *Italmare Shipping Co v Ocean Tanker Co Inc (No 2), The Rio Sun (No 2)* [1982] 3 273, QBD.

SIKH

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SILVER COINS

Treasure trove—

Crown's rights. *See* Treasure trove (Crown's right to treasure trove—Coins—Silver coins).

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SOCIAL SECURITY

Family income supplement. *See* Family income supplement.

Supplementary benefit. *See* Supplementary benefit

Unemployment benefit. *See* National insurance (Unemployment benefit).

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Negligent advice—

Cause of action. *See* Negligence—Cause of action—Negligent advice, *post*.

SOLICITOR (cont)

Authority—

Ostensible authority—

Compromise of action—Solicitor's ostensible authority to compromise action—Action by buyer of house against builder for damages for defective construction of house—Builder's solicitor purporting to agree compromise of action on terms that builder was to purchase house from buyer at current value in proper condition—Builder expressly instructing his solicitor not to enter into such a compromise—Whether compromise within solicitor's ostensible authority vis-a-vis buyer—Whether distinction between solicitor's implied authority vis-a-vis own client and his ostensible authority vis-a-vis opposing litigant to compromise action—Whether solicitor having ostensible authority when he did not have implied authority—Whether repurchase of house at agreed valuation constituting matter collateral to action. **Waugh v H B Clifford & Sons Ltd** [1982] 1 1095, CA.

Client—

Legally assisted client—

Duty to. **Kelly v London Transport Executive** [1982] 2 842, CA.

Compromise of action—

Authority. *See* Authority—Ostensible authority—Compromise of action, *ante*.

Contentious business—

Costs. *See* Costs—Contentious business, *post*.

Costs—

Contentious business—

Action to recover costs—Action on cheque—Client giving solicitor cheque which was dishonoured on presentation—Solicitor suing on cheque—Whether action on cheque circumventing statutory requirements and therefore barred—Solicitors Act 1974, ss 59, 69. **Martin Boston & Co (a firm) v Levy** [1982] 3 193, ChD.

Alleged agreement—Solicitors stating by letter that charges to be made on the basis of hourly rates applicable to partners or associates involved—Client replying by letter enclosing advance payment but not expressly assenting to rates proposed—Whether letters constituting a 'contentious business agreement'—Solicitors Act 1974, s 59. **Chamberlain v Boodle & King (a firm)**, [1982] 3 188, CA.

Taxation. *See* Costs (Taxation—Solicitor—Bill of costs for contentious business).

Non-contentious business—

Interest—Right to charge interest on bill of costs—Date from which interest runs—Solicitor serving notice required under remuneration rules on client some months after delivery of bill—Bill unpaid and solicitor bringing action to recover principal sum and interest—Whether solicitor entitled to interest from one month after delivery of bill or only from service of notice—Solicitors' Remuneration Order 1972, 1972/1139, arts 3(2), 5. **Walton v Egan** [1982] 3 849, QBD.

Interest—Special agreement as to remuneration—Solicitor and client making agreement as to principal sum and interest—Action by solicitor to recover unpaid interest—Whether statutory provisions as to special agreements covering agreement as to interest—Whether special agreements subject to restrictions in rules regarding interest—Solicitors Act 1974, s 57—Solicitors' Remuneration Order 1972, 1972/1139 arts 3, 5. **Walton v Egan** [1982] 3 849, QBD.

Recovery—

Contentious business—Action on cheque. *See* Costs—Contentious business—Action to recover costs—Action on cheque, *ante*.

Taxation—

Generally. *See* Costs (Taxation—Solicitor).

Solicitor and own client basis. *See* Costs (Taxation—Solicitor and own client).

Disciplinary proceedings—

Jurisdiction of court—

Extent of court's jurisdiction—Exercise of court's jurisdiction—Jurisdiction of court to order solicitor to pay costs—Nature of conduct justifying court in exercising jurisdiction—Conduct required to be inexcusable and such as to merit reproof—Mistake, error of judgment or mere negligence insufficient—Solicitors Act 1974, s 50. **R & T Thew Ltd v Reeves (No 2)** [1982] 3 1086, CA.

Insurance—

Professional indemnity insurance. *See* Insurance (Liability insurance—Professional indemnity insurance).

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Duty of solicitor to legally assisted client. *See* Client—Legally assisted client, *ante*.

Negligence—

Cause of action—

Negligent advice—Accrual of action—Whether cause of action against solicitor complete when client acts on solicitor's negligent advice or when loss or damage occurs. **Forster v Outred & Co** [1982] 2 753, CA.

Non-contentious business—

Costs. *See* Costs—Non-contentious business, *ante*.

Practice—

Generally. *See* Costs, *ante*.

Taxation—Generally. *See* Costs (Taxation—Solicitor).

Withdrawal. *See* Withdrawal, *post*.

Professional indemnity insurance. *See* Insurance (Liability insurance—Professional indemnity insurance—Solicitor).

Withdrawal—

Application for order that solicitor has ceased to act for party to litigation—

Service of application—Whether application must be served on every party to the litigation or merely on party for whom solicitor acted—Whether if improper motive suspected on part of litigant in withdrawing instructions court may insist on solicitor remaining on record to provide convenient postbox—RSC Ord 32, r 3, Ord 67, r 6(2). **Re Creehouse Ltd** [1982] 3 659, CA.

SPECIFIC PERFORMANCE

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SPECIFIC PERFORMANCE (cont)

Sale of land—

Conditional contract—

Waiver of conditions—Subject to contract—Parties negotiating sale and purchase of lease subject to contract—Tenant breaking off negotiations in May—Parties reaching oral agreement in November—Letter from vendor confirming terms of oral agreement but stated to be subject to contract—Whether oral agreement in November subject to contract—Whether subject to contract qualification of previous negotiations continuing and applying to oral agreement—Whether oral agreement the result of new negotiations or the resumption of existing negotiations. **Cohen v Neesdal Ltd** [1982] 2 97, CA.

SPOUSE

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Compellability. *See* **Criminal evidence** (Compellability as witness—Spouse as witness for prosecution).

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Failure to deliver statement of claim—

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Leave to amend after trial of action. *See* **Pleading** (Amendment—Leave to amend after trial of action—

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Statute of limitation. *See* **Limitation of action** (Statute—Amendment—Construction).

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Penal statute—

Abolition of offence—

Offence committed before abolition—Prosecution for offence after abolition—Frequenting or loitering with intent—Whether person may be prosecuted after abolition for offence committed before abolition—Whether repealing statute showing contrary intention—Vagrancy Act 1824, s 4—Interpretation Act 1978, s 16—Criminal Attempts Act 1981, ss 8, 10, Sched, Part II. **Commissioner of Police of the Metropolis v Simeon** [1982] 2 813, HL.

Retrospective operation—

Amendment of statute of limitation—

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Extension of limitation period).

Validity—

Constitution of independent sovereign state—

Jurisdiction of court—Pleadings challenging validity of properly passed Act—Canada Act passed by United Kingdom Parliament to repatriate Canadian constitution to Canada—Allegation that Act ultra vires because 'consent' of dominion not properly obtained—Whether court having jurisdiction to inquire into validity of Act—Whether declaration in Act that dominion has requested and consented to legislation conclusive—Canada Act 1982. **Manuel v A-G** [1982] 3 786, ChD, [1982] 3 822, CA.

STATUTORY MARKET

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Levying of rival market—

Availability of common law remedy. *See* **Markets and fairs** (Disturbance—Levying of rival market—Common law remedy—Disturbance of statutory market by levying of rival market).

STATUTORY POWER

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Generally. *See* **Company** (Winding-up—Stay or restraint of proceedings against company).

STOLEN GOODS

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STRIKE

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STUDENT

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Leave to enter. *See* **Immigration** (Leave to enter—Non-patrial—Student).

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Grant for study. *See* **Education** (University—Grant for study).

SUB-CONTRACTOR

Negligence—

Defective work or product—

Duty to take care. *See* **Negligence** (Duty to take care—Defective work or product).

SUMMARY JUDGMENT

Generally. *See* **Practice** (Summary judgment).

SUMMARY TRIAL

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Generally. *See* **Magistrates** (Summary trial).

SUMMONS FOR DIRECTIONS

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SUPPLEMENTARY BENEFIT

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Reasons for decision—

Duty of tribunal to give adequate reasons—Consequence of giving inadequate reasons—Whether decision vitiated due to error of law—Tribunals and Inquiries Act 1971, s 12—Supplementary Benefits (Appeal Tribunal) Rules 1971 (SI 1971/680)r 12(1). *Crake v Supplementary Benefits Commission, Butterworth v Supplementary Benefits Commission* [1982] 1 498, QBD.

Damages for personal injuries—

Deduction of supplementary benefit—

Special damages. *See* **Damages** (Personal injury—Special damage—Deductions—Supplementary benefit).

Entitlement—

Aggregation of requirements and resources—

Persons not married to each other who are living together as husband and wife—Factors necessary to establish man and woman living together as husband and wife—Whether sufficient to show man and woman living together in same household—Supplementary Benefits Act 1976, Sch 1, para 3(1)(b). *Crake v Supplementary Benefits Commission, Butterworth v Supplementary Benefits Commission* [1982] 1 498, QBD.

SURVEYOR

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Negligence—

Assessment of damages. *See* **Damages** (Assessment—Date at which damages assessed—Surveyor's report to purchaser negligently failing to disclose defects in building).

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SUSPECTED PERSON

Vagrancy offence—

Frequenting or loitering with intent. *See* **Criminal law** (Vagrancy—Frequenting or loitering with intent).

Generally. *See* **Criminal law** (Vagrancy—Suspected persons).

SUSPENDED SENTENCE

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TAX

Capital allowances—

Income tax. *See* **Income tax** (Capital allowances).

Capital gains tax. *See* **Capital gains tax**

Capital transfer tax. *See* **Capital transfer tax**.

Development land tax. *See* **Development land tax**.

Income tax—

Generally. *See* **Income tax**.

Value added tax. *See* **Value added tax**.

TAXATION

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TELEX

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TENANCY

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Generally. *See* **Landlord and tenant** (Business premises).

Generally. *See* **Landlord and tenant**.

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Sale of house to tenant. *See* **Housing** (Local authority houses—Sale of house—Tenant's right to buy).

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TENANTS IN COMMON

Real property—

Occupation of whole property by one of tenants in common—

Rent—Family home purchased in joint names on trust for sale by man and woman living together—Relationship breaking down and woman leaving home because of man's violence—Some of children of family living with man in home—Whether man liable to pay occupation rent to woman—Whether rent to be assessed on basis of open market rent value or half the fair rent of a protected tenancy of house—Law of Property Act 1925, s 30. *Dennis v McDonald* [1982] 1 5, CA.

TERRITORIAL WATERS

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Crown. *See* **Petroleum rights** (Crown—Rights vested in Crown—Petroleum and natural gas situated inside and outside territorial waters).

THEFT

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THREAT

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Intimidating or threatening jury. *See Jury* (Intimidating or threatening jury).

Threat to kill. *See Criminal law* (Threat to kill).

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Company—

Registration of charge. *See Company* (Charge—Registration—Extension of time).

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Generally. *See Case stated* (Limitation of time).

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Prosecution—

Generally. *See Criminal law* (Time—Time limit for bringing prosecution).

Illegal entry into United Kingdom. *See Immigration* (Illegal entry and similar offences—Time limit for prosecutions).

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Issue—

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TIME CHARTER

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TORT

Contribution between joint tortfeasors—

Survival of claim for contribution on death of one joint tortfeasor—

Joint tortfeasor's liability to plaintiff in main action not established or admitted at date of death—Joint tortfeasor not having subsisting cause of action for contribution at date of death—Whether joint tortfeasor's claim for contribution a defined inchoate right at date of death—Whether claim for contribution dying with claimant's death—Whether rule that a cause of action in tort dies with the person in whom cause vested applying to joint tortfeasor's claim—Whether claim for contribution preserved for benefit of claimant's estate under statute—Law Reform (Miscellaneous Provisions) Act 1934, s 1(1)—Law Reform (Married Women and Tortfeasors) Act 1935, s 6(1). *Ronex Properties Ltd v John Laing Construction Ltd* (Clarke, Nicholls & Marcel (a firm), third parties) [1982] 3 961, CA.

Damages—

Generally. *See Damages*.

Joint tortfeasors—

Contribution. *See Contribution between joint tortfeasors, ante*.

Limitation of action—

When time begins to run. *See Limitation of action* (When time begins to run—Actions in tort).

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TOWN AND COUNTRY PLANNING

Development—

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Planning unit—Determination of what constitutes appropriate unit—New chapter in planning history—Extinction of existing use rights—Industrial site having existing use rights for repair and maintenance of vehicles—Old workshop on site replaced by new workshop without planning permission—Workshop covering only small portion of site—Whether new workshop a new planning unit starting with nil use—Whether new chapter in planning history commencing—Whether new workshop falling within existing use right attaching to whole site. *Jennings Motors Ltd v Secretary of State for the Environment* [1982] 1 471, CA.

Permission—

Generally. *See Permission for development, post*.

Permission for development—

Revocation—

Compensation—Expenditure in carrying out work which is rendered abortive by order—Expenditure incurred by person interested in the land—Meaning of 'person interested in the land'—Whether meaning limited to person having a legal interest in the land—Whether a licensee capable of being a person interested in the land—Town and Country Planning Act 1971, s 164(1). *Pennine Raceway Ltd v Kirklees Metropolitan Council* [1982] 3 628, CA.

TRADE

European Economic Community—

Rules on competition. *See European Economic Community* (Rules on competition).

Trade description. *See Trade description*.

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TRADE DESCRIPTION

False or misleading indication as to price—

Indication of previous offer at higher price—

Goods not offered for sale at higher price at shop indicated in advertisement—Goods previously offered for sale at higher price at another shop belonging to defendant—Whether false trade description if goods not previously offered at higher price at shop indicated at in advertisement—Trade Descriptions Act 1968, s 11(1)(b). *Westminster City Council v Ray Alan (Manshops) Ltd* [1982] 1 771, QBD.

False or misleading statement as to services etc—

False statement as to provision of facilities in course of trade or business—

Facility—Sign outside shop advertising closing down sale—Defendant continuing to trade at shop—Whether sign amounting to representation that a 'facility' was being provided in course of the trade or business—Trade Descriptions Act 1968, s 14(1)(b)(ii). *Westminster City Council v Ray Alan (Manshops) Ltd* [1982] 1 771, QBD.

TRADE DISPUTE

Acts done in contemplation or furtherance of trade dispute—

In contemplation or furtherance of—

Secondary action in furtherance of dispute—Validity of secondary action—Contract for supply of services between employer who is party to dispute and employer to which secondary action relates—Vessel let on time charter by owners to charterers—Charterers engaging shipping agents to arrange harbour services with port authority—Vessel blacked while in port—Port authority's employees taking secondary action to prevent vessel leaving port—Whether contract for supply of services between owners and port authority—Whether secondary action by port authority's employees unlawful—Employment Act 1980, s 17(3)(6). *Marina Shipping Ltd v Laughton* [1982] 1 481, CA.

Secondary action in furtherance of dispute—Claim by party that he had acted in furtherance of trade dispute—Policy of television technicians' union that television stations should not buy in ready-made programmes from outside—Plaintiffs making programmes and agreeing to sell them to television station—Union blocking programmes—Whether union acting in contemplation or furtherance of 'trade dispute'—Whether union's action amounting to interference with plaintiffs' trade or business by unlawful means—Trade Union and Labour Relations Act 1974, ss 13, 29—Employment Act 1980, s 17. *Hadmor Productions Ltd v Hamilton* [1982] 1 1042, HL.

Duress—

Economic duress—

Threat to black vessel unless payment made by shipowners to international seafarers welfare fund on behalf of crew members—Whether money recoverable by shipowners on basis of a resulting trust or as money paid under duress—Whether pressure legitimate so as to exclude restitutional remedy in an action for money had and received—Whether dispute as to payment to fund 'connected with terms and conditions of employment'—Trade Union and Labour Relations Act 1974, ss 13 (as amended by the Trade Union and Labour Relations (Amendment) Act 1976, s 3(2)), 29(1). *Universe Tankships Inc of Moravia v International Transport Workers Federation* [1982] 2 60, CA.

TRADE MARK

Registration—

Distinctiveness—

Geographical name—'York'—Inherent capability of distinguishing—Mark factually distinctive of proprietor's goods and those of no-one else—Proprietor using mark on substantial scale and for long period—Whether past user and factual distinctiveness conclusive to show mark 'inherently capable of distinguishing'—Whether in relation to geographical name trader may obtain monopoly in its user to detriment of future traders—Trade Marks Act 1938, s 10(2)(a). *York Trailer Holdings Ltd v Registrar of Trade Marks* [1982] 1 257, HL.

TRADE UNION

Collective agreement—

Proper law of contract. *See* Conflict of laws (Contract—Proper law of contract—Collective agreement).

Inter-union relations—

Bridlington principles—

Breach—Termination of membership of union. *See* Membership—Termination of membership—No-poaching agreement between unions—Bridlington principles, *post*.

Membership—

Termination of membership—

No-poaching agreement between unions—Bridlington principles—Admission by union to membership of person recently belonging to another union—Failure of new union to inquire of former union if it objected to member joining new union—TUC disputes committee finding admission to membership in breach of Bridlington principles and requiring new union to terminate membership—Member concerned not allowed to make personal representations to disputes committee—Union's executive committee purporting to terminate membership without giving member opportunity to be heard—Committee terminating membership under union rule giving it discretion to terminate membership where necessary to comply with decision of TUC disputes committee—Whether termination of membership valid—Whether disputes committee and union's executive committee acting in breach of rules of natural justice. *Cheall v Association of Professional, Executive, Clerical and Computer Staff* [1982] 3 855, QBD & CA.

Membership and activities—

Membership. *See* Membership, *ante*.

Rights of workers. *See* Industrial relations (Trade union membership and activities—Rights of worker as against employer).

Natural justice—

Termination of membership. *See* Membership—Termination of membership, *ante*.

Trade dispute—

Generally. *See* Trade dispute.

TRAFFIC

Road traffic. *See* Road traffic.

TRANSPORT

London Transport Executive. *See* London Transport Executive.

TREASURE TROVE

Crown's right to treasure trove—

Coins—

Silver coins—Whether Crown's right to treasure trove limited to articles of gold and silver. *Attorney General of the Duchy of Lancaster v GE Overton (Farms) Ltd* [1982] 1 524, CA.

TRIAL

Criminal—

Generally. *See* Criminal law (Trial).

Majority verdict. *See* Jury (Majority verdict).

Sentence. *See* Sentence.

Crown Court—

Committal. *See* Crown Court (Committal for trial at Crown Court).

Retrial. *See* Criminal law (Trial—Retrial).

Summary trial—

Generally. *See* Magistrates (Summary trial).

TRIBUNAL

Lands Tribunal. *See* Lands Tribunal.

Supplementary Benefits Appeal Tribunal. *See* Supplementary benefit (Appeal tribunal).

Witness—

Attendance—

Power of High Court to aid tribunal by issuing subpoena ad testificandum. *See* Witness (Attendance—Tribunal—Power of High Court to aid tribunal by issuing subpoena ad testificandum).

TROVER

Right of possession—

Finder—

Bracelet found in airport lounge by passenger—Occupier of lounge not manifesting intention to exercise exclusive control over lounge and chattels on or in it—Whether finder entitled to bracelet. *Parker v British Airways Board* [1982] 1 834, CA.

TRUST AND TRUSTEE

Bankruptcy—

Trustee in bankruptcy. *See* Bankruptcy (Trustee in bankruptcy).

Capital gains tax—

Settlement. *See* Capital gains tax (Settlement).

Constructive trust—

Cheque drawn by director on company's account—

Director appropriating company's funds to settle personal debt incurred by deceased director—Creditor knowing that payment made in breach of trust—Whether creditor a constructive trustee for company of money received. *International Sales and Agencies Ltd v Marcus* [1982] 3 551, QBD.

Sale of registered land—

Vendor agreeing to sell land to plaintiffs and erect house on it—Vendor going into liquidation—Vendor's bank selling land to defendant in exercise of mortgagee's power of sale—Contract between bank and defendant stipulating that sale subject to plaintiffs' contract with vendor—Whether stipulation imposing constructive trust on defendant to give effect to plaintiffs' contract—Whether registration giving defendant absolute title free from plaintiffs' unregistered interest—Land Registration Act 1925, ss 20(1), 34(4). *Lyus v Prowsa Developments Ltd* [1982] 2 953, ChD.

Unmarried couple—

House acquired by joint efforts for joint benefit—Principles governing apportionment of beneficial interests—Relevance of principles governing rights of husband and wife in matrimonial home—House acquired by engaged couple in joint names—Both going into occupation and letting rooms to meet mortgage instalments—Couple separating—Man thereafter occupying house alone—Sale of property—Share of proceeds of sale to which woman entitled—Whether order for sale should be made. *Bernard v Josephs*. [1982] 3 162, CA.

Discretionary trust—

Income tax. *See* Income tax (Settlement—Discretionary trust).

Profit from trust—

Account of profits—

Commission—Professional indemnity insurance—Solicitors—Law Society's group scheme—Law Society arranging master policy with specified insurers through brokers—Law Society and brokers agreeing to share commission—Whether Law Society accountable to individual solicitors for commission received—Whether Law Society in fiduciary relationship with solicitors when making commission agreement with brokers. *Swain v Law Society* [1982] 2 827, HL.

Settlement—

Capital gains tax. *See* Capital gains tax (Settlement).

Generally. *See* Settlement.

Trust corporation—

Reregistration as public company—

Practice—Probate. *See* Probate (Practice—Trust corporation—Public company).

TRUST CORPORATION

Grant of probate. *See* Probate (Grant—Trust corporation).

Reregistration as public company—

Practice—

Probate. *See* Probate (Practice—Trust corporation—Public company).

TRUSTEE IN BANKRUPTCY

See Bankruptcy (Trustee in bankruptcy).

UNBORN CHILD

Fetus—

Negligence. *See* **Negligence** (Duty to take care—Persons to whom duty owed—fetus).

UNDUE INFLUENCE

Equitable relief. *See* **Equity** (Undue influence).

UNEMPLOYMENT BENEFIT

Generally. *See* **National Insurance** (Unemployment benefit).

UNFAIR DISMISSAL

Dismissal in connection with strike or other industrial action—

Dismissal not unfair unless relevant employee not dismissed—

Relevant employee—Relevant employee meaning employee who took part in strike—Employee who refused to go into factory to work during strike for fear of abuse from strikers not dismissed—Whether that employee a 'relevant employee'—Employment Protection (Consolidation) Act 1978, s 62(2)(a), (4)(b). *Coates v Modern Methods and Materials Ltd* [1982] 3 946, CA.

UNINCORPORATED ASSOCIATION

Requirements of unincorporated association—

Political party constituted by members of local constituency associations and both Houses of Parliament—

Funds raised by party treasurers held by party's central office which provided administrative services to party—Expenditure of funds under control of party leader—Party leader providing link between members of party—Rules for selection of party leader not subject to amendment—Whether rules for selection of party leader constituting contract between members of party—Whether party an unincorporated association—Whether central office holding income from funds on behalf of an unincorporated association—Whether central office liable to corporation tax on income from funds—Income and Corporation Taxes Act 1970, s 526(5). *Conservative and Unionist Central Office v Burrell (Inspector of Taxes)* [1982] 2 1, CA.

Undue influence—

Whether claim based on presumption of undue influence can be raised against unincorporated association. *See* **Equity** (Undue influence—Presumption of undue influence—Unincorporated association).

UNITED KINGDOM

Citizenship. *See* **Citizenship** (United Kingdom citizenship).

UNIVERSITY

Grant for study. *See* **Education** (University—Grant for study).

UNMARRIED COUPLE

House—

Joint acquisition of house—

Resulting trust. *See* **Trust and trustee** (Constructive trust—Unmarried couple—House acquired by joint efforts for joint benefit).

VAGRANCY

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VALUE ADDED TAX

Recovery of tax—

Person liable—

Person issuing invoice—Person issuing invoices in name of non-existent company and under wrong company name—Whether person liable for payment of tax due—Finance Act 1972, s 33(2). *Customs and Excise Comrs v Wells* [1982] 1 920, QBD.

Zero-rating—

Building works—

Alteration of building—Work of repair or maintenance—Underpinning of defective foundations—Existing foundations damaged by subsidence—Building company constructing additional foundations and leaving original foundations unaltered—Whether work carried out by company 'maintenance'—Finance Act 1972, Sch 4, Group 8, item 2, note 2. *ACT Construction Ltd v Customs and Excise Comrs* [1982] 1 84, HL.

VERDICT

Inquest—

Generally. *See* **Coroner** (Inquest—Verdict).

Majority—

Jury. *See* **Jury** (Majority verdict).

VISITOR

Occupier's duty of care to visitor. *See* **Occupier's liability** (Visitor).

VISITORS

Prison board of visitors—

Certiorari—

Jurisdiction. *See* **Certiorari** (Jurisdiction—Prison board of visitors).

VOLUNTARY WINDING-UP

Company. *See* **Company** (Voluntary winding-up).

WAIVER

Breach of contract. *See* **Contract** (Breach—Waiver).

WANT OF PROSECUTION

Arbitration—

Practice. *See* **Arbitration** (Practice—Want of prosecution).

WARD OF COURT

Custody—

Joinder of child as party to proceedings. *See* **Minor** (Practice—Wardship and custody proceedings—Joinder of child as party).

Joinder as party to proceedings. *See* **Minor** (Practice—Wardship and custody proceedings—Joinder of child as party).

Local authority—

Child in care. *See* **Child** (Care—Local authority—Wardship proceedings).

Practice—

Appointment of Official Solicitor as guardian and item—

When Official Solicitor should be appointed. *Re F (a minor)* (adoption : parental consent) [1982] 1 321, CA.

Official Solicitor's costs—

Appointment of Official Solicitor as guardian and item.—Payment of Official Solicitor's costs—Supreme Court Act 1981, s 51(1). *Re G (a minor)* (wardship : costs). [1982] 2 32, CA.

WARRANT

Committal—

Non-payment of fine—

Issue of warrant without hearing. *See* **Magistrates** (Fine—Committal to prison in default of payment—Issue of committal warrant without a hearing).

WEIGHTS AND MEASURES

Sale by measurement—

Causing to be delivered to buyer less quantity than that purported to be sold—

Sale of one pint (20 fl oz) of beer in pint brim measure glass in Leeds area—Glass containing 18.25 fl oz of liquid beer with rest of contents consisting of froth—Whether proper delivery of full quantity purported to be sold—Weights and Measures Act 1963, s 24(1). *Bennett v Markham* [1982] 3 646, QBD.

WELFARE OFFICER

Report of court welfare officer—

Divorce proceedings—

Practice. *See* **Divorce** (Practice—Children—Report of court welfare officer).

WIFE

Injunction—

Exclusion of husband from matrimonial home. *See* **Injunction** (Exclusion of party from matrimonial home—Wife's application to exclude husband).

WILL

Charging clause—

Literary executor. *See* **Executor and administrator** (Executor—Literary executor—Charging clause).

Mental patient—

Execution of will. *See* **Mental health** (Patient's property—Execution of will).

Professional charging clause—

Literary executor. *See* **Executor and administrator** (Executor—Literary executor—Charging clause—Professional charging clause).

WINDING-UP

Company—

Compulsory winding-up. *See* **Company** (Compulsory winding-up).

Generally. *See* **Company** (Winding-up).

Voluntary winding-up. *See* **Company** (Voluntary winding-up).

WITNESS

Attendance—

Tribunal—

Power of High Court to aid tribunal by issuing subpoena ad testificandum—Exercise of power—Police disciplinary hearing—Subpoenas ad testificandum issued by High Court to compel attendance of non-police witnesses at hearing—Whether High Court power exercisable—Whether disciplinary hearing quasi-judicial or merely administrative—Whether disciplinary hearing having insufficient power to compel attendance of non-police witness—Whether absence of power to administer oath to witness altering character of tribunal or making it inappropriate for High Court to issue a subpoena ad testificandum—Police (Discipline) Regulations 1977 (1977 No 580), reg 12(2)(3). *Currie v Chief Constable of Surrey* [1982] 1 89, QBD.

Compellability—

Criminal proceedings. *See* **Criminal evidence** (Compellability as witness).

Evidence—

Evidence by deposition. *See* **Evidence** (Examination out of court—Evidence by deposition).

Examination—

Examination out of court. *See* **Evidence** (Examination out of court).

Privilege—

Self-incrimination. *See* **Evidence** (Privilege—Incrimination of witness or spouse).

Spouse—

Compellability as witness for prosecution. *See* **Criminal evidence** (Compellability as witness—Spouse as witness for prosecution).

WOMEN

Equality of treatment—

Employment. *See* **Employment** (Equality of treatment of men and women).

WORK AND LABOUR

Employment—

Discrimination against a woman. *See* **Employment** (Discrimination against a woman).

Industrial relations. *See* **Industrial relations**.

Social security—

Generally. *See* **National insurance**.

WORK AND LABOUR (cont)

Trade dispute. *See* **Trade dispute**.

WRIT

Amendment—

Parties. *See* **Practice** (Parties—Adding defendant—Amendment of writ).

Extension of validity—

Failure to renew writ—

Order for substituted service of writ by serving notice of writ made after expiry of validity of writ—Impossibility of extending validity of writ to date of order for substituted service—Whether jurisdiction to cure irregularity—Whether order for substituted service invalid—RSC Ord 2, r 1, Ord 6, r 8. **Bernstein v Jackson** [1982] 2 806, CA.

Fi fa. *See* **Execution** (Writ of fi fa).

Issue—

New practice and procedure. *See* **Practice** (Queen's Bench Division and Chancery Division—New practice and procedure).

Time—

Limitation period prescribed by agreement—Contract incorporating Hague Rules—Agreement extending time prescribed by Hague Rules—Agreed period expiring on day court offices closed—Writ issued on first day thereafter that court offices open—Whether writ issued in time—Carriage of Goods by Sea Act 1971, Sch, art 3, r 6. **The Clifford Maersk** [1982] 3 905, QBD.

WRONGFUL INTERFERENCE WITH GOODS

Conversion. *See* **Conversion**.

Trespass to goods. *See* **Trespass to goods**.

Trover. *See* **Trover**.

YOUNG PERSON

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ZERO-RATING

Value added tax. *See* **Value added tax** (Zero-rating).







